United Nations A/69/391

General Assembly

Distr.: General
19 September 2014

Original: English

Sixty-ninth session
Agenda item 50
United Nations Relief and Works Agency for Palestine Refugees in the Near East

Report of the Working Group on the Financing of the United Nations Relief and Works Agency for Palestine Refugees in the Near East

Rapporteur: Meena **Syed** (Norway)

Summary

The present report of the Working Group on the Financing of the United Nations Relief and Works Agency for Palestine Refugees in the Near East provides a description of the activities of the Group in 2014 and a detailed outline of the current financial situation of the Agency. The Working Group unanimously adopted the report at its meeting on 18 September 2014. As in previous reports of the Group, the present report closes with a number of concluding remarks addressed to all Member States.

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I. Introduction

1. The Working Group on the Financing of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) was established by the General Assembly under resolution 2656 (XXV) to study all aspects of the financing of the Agency. In that resolution, the Assembly requested the Working Group to assist the Secretary-General and the Commissioner-General of UNRWA in reaching solutions to the problems posed by the Agency's financial crisis. UNRWA was established under Assembly resolution 302 (IV), and its mandate was renewed most recently by the Assembly in resolution 68/76.

2. The Working Group consists of the representatives of France, Ghana, Japan, Lebanon, Norway, Trinidad and Tobago, Turkey, the United Kingdom of Great Britain and Northern Ireland and the United States of America. The Working Group is currently chaired by Y. Halit Çevik of Turkey.

3. At its twenty-fifth session and all those that followed, the General Assembly considered the reports submitted to it by the Working Group (in 2013, A/68/388) and adopted resolutions taking note with appreciation of the efforts of the Working Group (resolution 68/78).

II. Activities of the Working Group in 2014

4. The first regular session of the Working Group was convened on 30 June 2014. The Working Group then met at the expert level at its second to fifth sessions, on 15 July, 20 August and 5 and 10 September, and agreed upon and adopted the present report on 18 September. The Director of the UNRWA Representative Office in New York provided updates on the Agency's grave financial situation and the situation in the UNRWA fields of operation.

III. Financial situation of the United Nations Relief and Works Agency for Palestine Refugees in the Near East

5. The Agency's cash and in-kind portions of the General Fund for the biennium 2014-2015 amount to $1,475.4 million, of which the cash component for its programme requirements is $729.3 million for 2014 and $741.5 million for 2015. In addition, the programme budget for 2014 and 2015 includes in-kind assistance amounting to $2.3 million for each year in the biennium. The cash budget of $729.3 million for 2014 includes funding of $29.9 million from United Nations assessed contributions to cover the cost of 150 international posts funded from the regular budget for the biennium 2014-2015. As at the end of August 2014, the forecast end-of-year cash position for the Agency's General Fund was a deficit of $55.9 million. With great concern, the Working Group notes that, with the aforementioned expected cash deficit, the Agency is likely to be unable to meet its financial obligations by the end of October 2014.

6. The Agency provided details to the Working Group on the extent and nature of the funding crisis that it is facing and on the continuing efforts that it was making to address the issue, including the implementation of its 2012-2015 resource mobilization strategy, the preparation of its 2016-2021 medium-term strategy,

ongoing reforms and austerity measures put in place. The Working Group appreciates the efforts made by UNRWA, and urges the Agency to continue taking steps to mitigate its chronic budget shortfalls. UNRWA expressed its deep gratitude to its donors for their generous contributions, in particular given the financial crisis worldwide. In 2013, donors came forward with substantial contributions which allowed UNRWA to close its financial gap. UNRWA was able to fully pay December 2013 salaries due to receipt of an additional €10 million from the European Union and advance funding of programme support costs of $6.5 million, in addition to austerity measures put in place. Approximately 80 per cent of the Agency's General Fund expenditure relates to staff costs; these are, in effect, service delivery costs, which consist mainly of the salaries of its teachers, doctors, nurses and social workers, which tend to increase as the refugee population grows each year. These costs have increased in response to growing needs in a growing refugee population. Other increasing cost factors, including salary adjustments comparable to those granted in the public sector in the host countries in which UNRWA operates, have made it difficult to reduce spending to meet short-term cash-flow requirements and the medium-term funding shortfall. The austerity measures UNRWA initiated in 2012 are still in place in 2014, in view of the continuing funding shortfalls. As in 2013, the Agency has been warned that many of its traditional donors will not be able to step in to fund the forecast deficit owing to their own budget constraints. This is of great concern to UNRWA, given that it relies almost entirely on voluntary contributions to fulfil its mandate and meet the basic needs of a growing and increasingly marginalized Palestine refugee population, now numbering 5.1 million registered with the Agency. Higher and more predictable income remains essential to enable the Agency to continue providing services. Increased funding is required, especially during the first quarter of the year, when the inflow of donor contributions is traditionally low, while the Agency's costs are structurally high and fixed. The Agency has renewed its appeals to donors to make additional efforts to fully fund the General Fund budget, recalling that UNRWA represents the principal source of basic services for the Palestine refugee population. The Working Group noted that although financial and budgetary challenges are felt across the United Nations system, the continuing commitment of the international community to the Palestine refugees remains essential in the absence of a just and durable solution to their plight and in the light of the continuing conflicts and rising instability in the region, which have had devastating economic and social effects.

7. The Agency informed the Working Group that the lack of funding undermined the quality of UNRWA services. It also jeopardized the ability of the Agency to fully implement the major management reforms begun in 2006 and subsequent programme reforms, in particular in the areas of health, education and social services. Building on these basic management reform and strategic planning measures, the focus of the reform efforts over the coming years has become programmatic. The Agency's current education reforms seek to improve the capacity of teachers to deliver high-quality education to refugee children, and to ensure that refugee children acquire the knowledge and skills that they need to lead more secure and productive lives. To improve the effectiveness of UNRWA primary care, and in response to emerging challenges such as the growing prevalence of non-communicable diseases, UNRWA adopted in 2011 a health reform package based on a "family health team" approach. The family health team model provides comprehensive and holistic primary health care for the entire family, emphasizing long-term provider-patient/family relationships. The package of health reforms is

helping to contain the growth in some health costs by improving the effectiveness of primary care and, as a result, reducing costly referrals for hospital treatment and by lowering the quantity of drug prescriptions. UNRWA is also taking forward-looking steps in order to address poverty among Palestine refugees. The Relief and Social Services Department is developing a poverty alleviation approach based on voluntarism, youth mobilization and greater involvement of the community in efforts to combat poverty. At the meetings of the Advisory Commission of UNRWA in 2013, host and donor countries expressed appreciation for UNRWA efforts and progress in the reform areas and concern about the negative impact of the deficit on the services delivered to Palestine refugees. Members of the Advisory Commission also appreciated the UNRWA commitment to formulating a medium-term strategy that is designed with the intent to ensure the continued effectiveness and sustainability of the Agency.

8. The Agency informed the Working Group of the fundraising challenges that it is facing, which included the need to: (a) increase the funds received from existing donors in order to maintain the requisite services provided under the Agency's General Fund, while simultaneously expanding the donor base and increasing funding to projects and emergency appeals, including through partnerships with the private sector and foundations; (b) restore the financial health of the Agency by ensuring predictable and sustainable funding at appropriate levels; (c) re-establish an adequate working capital reserve; (d) communicate more strategically with external stakeholders through the development of a stronger single corporate identity and make use of innovative technology; and (e) reorganize resource mobilization and strategic communications structures, so as to seize opportunities more systematically and conduct outreach and appeals for support for the Agency more proactively and creatively.

9. UNRWA updated the Working Group on some of the steps that it is taking to improve its strategic approach to resource mobilization in line with resolution 65/272, in which the General Assembly urged the Commissioner-General to continue the efforts to sustain and increase support of traditional donors and to enhance income from non-traditional donors. Seeking to enhance its partnership capacity with a range of governmental, non-governmental and private-sector actors, in line with current global United Nations practices, the Agency continues to develop its partnership unit based in the External Relations and Communications Department and to implement its resource mobilization strategy for the period 2012-2015. As part of the strategy, the Agency has put in place action plans for emerging markets, as well as individual philanthropists and other private partners, with a view to broadening the donor base further. This has resulted in increased contributions from emerging markets, with generous contributions from Brazil, India, Malaysia and the Russian Federation, among others; Arab partners, in particular Kuwait and Saudi Arabia; and the private sector. Several donors, for economic or other reasons, were unable to renew multi-year agreements with UNRWA, although most were able to maintain their funding levels. The Agency's largest donors remain the United States and the European Union and its Member States.

10. Given its cost structure, unpredictable funding environment and reliance on voluntary contributions, UNRWA estimates that, to be in line with common best practices in the public and private sectors, it would be prudent to maintain the equivalent of at least three months' cash requirement as an adequate working capital

balance. As at the end of December 2013, the UNRWA General Fund cash balance was $2.9 million, with a monthly cash outflow of $55 million (comprising $45 million in staff costs and $10 million in non-staff costs). In effect, this means that UNRWA now has no working capital. An injection of some $165 million in working capital would be required to create a minimum safety cushion for the Agency's finances. The UNRWA operating cash deficiency is recurrent in nature and has worsened over the recent years, as costs have risen faster than the rate of growth in traditional donor income. The relative deficiency in necessary cash to meet operating requirements has manifested itself in various ways: (a) in 2010 UNRWA had an average cash balance of about $80 million; now UNRWA has virtually no working capital; (b) each year over the past three years UNRWA has had to temporarily suspend creditor payments owing to a shortage of cash; at the end of 2013, $22.5 million of creditor payments were suspended to be paid in early 2014; and (c) each year over the past four years UNRWA has had to source an advance from the following year's pledged income to effect payments (salaries) late in the year.

11. The capital requirements of UNRWA programmes, in addition to expenditure relating to environmental health improvements and shelter rehabilitation, are contained mainly in the Agency's project budget. These requirements include construction and expansion of schools, health centres, water and sanitation facilities and camp improvement activities in general. The project budget for the biennium 2014-15 is $485.9 million; for 2014 the projects budget is $247.4 million, of which $39.4 million had been pledged by donors as at the end of August 2014. Funds received amount to $24 million, leaving a deficit of $208 million in terms of pledges and $223.4 million in terms of contributions received. The Working Group is concerned about the inadequacy of project funding in view of the Agency's urgent need to construct new facilities and upgrade existing ones that would enable it to meet the needs of a growing refugee population, arrest the deterioration of old installations and deliver high-quality services to Palestine refugees.

12. The Agency expressed its concerns to the Working Group regarding the unfunded provision of severance payments, audited at $491.7 million as at 31 December 2013 (an increase of $28.7 million compared with $463.0 million as at 31 December 2012) on the basis of the current costs and UNRWA Staff Regulations and Rules. If UNRWA in the future is required to show greater flexibility in the efficient use of staff, an immediate requirement will be the availability of sufficient funds to effect severance payments. UNRWA, in the context of resolution 65/272, which pertains to the strengthening of its management capacity, thus wishes to bring to the attention of the General Assembly the need to identify potential sources of funding that could be made available to finance UNRWA severance payments, on a standby basis and if required.

13. As at 31 December 2013, the total amount of value-added tax due to the Agency regarding services and goods procured for the West Bank and Gaza stood at some $94.7 million, the largest amount ever owed by the Palestinian Authority to the Agency. In late 2013, following discussions with relevant Palestinian authorities, UNRWA obtained an exemption of value added tax on services and goods procured, provided specific conditions are met. Since then virtually all new contracts from December 2013 have been exempt from value added tax. As at the end of August 2014, VAT paid in the West Bank and Gaza was 60 per cent below that paid a year earlier, owing entirely to the run-down of legacy commercial contracts.

14. The Working Group was also informed that the Agency continued to be concerned about UNRWA extra staffing, transit and logistical costs resulting from Israeli security procedures in Gaza, which amounted to over $6.7 million in 2013. This is equivalent to the cost of building four UNRWA schools in Gaza or distributing food to over 800,000 beneficiaries for over a month. Additional costs are caused by inflation (as projects are delayed, prices increase and thus UNRWA is required to either downscale a project or request additional funding from a donor), and the continued payment of transitional shelter cash assistance by the Agency to those awaiting a new shelter. After discovering a tunnel entering its borders from Gaza in October 2013, the Government of Israel imposed additional security procedures — such as the daily monitoring of cement factories in Gaza by international staff — which will further increase the financial burden on the Agency throughout 2014. The monitoring requirement of daily cement factory visits necessitated the hiring of an international engineer to oversee and ensure the integrity of the transportation of the cement, in order to continue its construction programme in the Gaza Strip. Israel continued also to impose transit charges on shipments entering the Gaza Strip, obliging UNRWA to pay $199,942 in 2013. In the Agency's view, the charges are a direct tax from which it ought to be exempt under the Convention on the Privileges and Immunities of the United Nations of 1946. Furthermore, for substantial periods, the throughput of goods was not consistent with the obligations of Israel under the Comay-Michelmore agreement of 1967 and its obligations under international humanitarian law. In this regard, the Working Group calls upon all parties concerned to facilitate the mission of UNRWA to provide humanitarian assistance to the Palestine refugee population and to minimize the cost of providing such services.

15. Following the military escalation in Gaza, on 8 July 2014, UNRWA declared an emergency in all five areas of the Gaza Strip. To respond to the urgent and pressing humanitarian needs of the people of Gaza UNRWA launched an emergency flash appeal for $295.4 million to provide emergency assistance to 500,000 people through its shelters and through health and social service facilities available to those not taking refuge in UNRWA shelters. The Working Group takes note that the devastating conflict will have severe implications for the future work of UNRWA in Gaza and that the Agency will need enhanced support from donors, as Gaza recovers from the conflict.

16. Since 2010, Israel has permitted construction materials to enter the Gaza Strip for approved UNRWA projects. To obtain approval, UNRWA must submit detailed construction proposals, including design and bill of quantity, to the Coordinator of Government Activities in the Territories. The Working Group takes note that, as at 10 September 2014, the access regime in place prior to the summer 2014 hostilities remained unchanged. In October 2013, as a result of the discovery of the tunnel entering its borders from the adjoining territory with Gaza, the Government of Israel stopped the importation of construction material, affecting 30 ongoing UNRWA construction projects, worth a total of $115 million. The Working Group takes note that as at 10 September 2014, 27 of the aforementioned 30 projects had received clearance to resume. UNRWA is still awaiting clearance to resume the remaining three projects previously approved, which are funded by the Islamic Development Bank/Kuwait, Italy and Germany. In addition, since March 2013, only one new project has been approved by the Coordinator of Government Activities in the Territories: a housing project that will allow UNRWA to construct 285 new housing

units for refugees in Rafah. Approval remains pending for an additional 37 new projects, worth a total of $94.5 million, which have been submitted to the Coordinator (30 projects submitted for approval in 2012, 6 in 2013 and the remaining 1 in 2014). Twenty-three of these projects are to reconstruct larger schools on the same site as existing schools, all of which were submitted in November 2012. The construction of the larger schools is essential to reduce the current load on UNRWA schools, 90 per cent of which are operating on "double shifts". It would also offer employment opportunities for thousands of unemployed Gazans. The Working Group notes that UNRWA priorities regarding pending construction projects will have to be reviewed in the light of the massive destruction in Gaza, a result of the summer 2014 hostilities.

17. The Working Group reiterates its concern about the lack of progress in lifting the remaining restrictions, and urges Israel to expedite its efforts to ease restrictions, increase the amount of goods entering Gaza and authorize exports from Gaza to the outside world. The Working Group once again stresses that progress is needed to address the overall economic and humanitarian situation in Gaza and underscores the importance of the full implementation of Security Council resolutions 1850 (2008) and 1860 (2009). The Working Group takes note of the annual Socio-Economic and Food Security report, which shows that food insecurity in Gaza remained at a very high 57 per cent in 2013. Food insecurity is driven by high rates of poverty resulting from unemployment; food is available on the market but is not accessible for the vast majority of the impoverished population. Prior to the recent hostilities, more than 800,000 Palestine refugees relied on quarterly food aid from UNRWA. The beneficiary number is expected to increase further in 2014. The Working Group recognizes the vital role played by UNRWA in providing humanitarian and development assistance in Gaza. Emphasizing the need to ensure the sustained and regular flow of goods and people through the Gaza crossings and the unimpeded provision and distribution of humanitarian assistance throughout Gaza, the Working Group highlights that import and export restrictions increase poverty, render the population ever more reliant on the services of the Agency and add to the burden on its already strained resources and capacity.

18. UNRWA informed the Working Group that Palestine refugees continued to suffer from the effects of the policies and practices of the Government of Israel in the West Bank. Access and movement restrictions imposed by the Government of Israel continue to limit the movement of people, goods and services. This state of affairs has not only hampered economic development, but has also contributed directly to high rates of unemployment and food insecurity for refugees. Furthermore, the number of forcibly displaced families suffering from house demolitions or Israeli settler violence remains high, especially in Area C. In 2014, as at 18 August, settler violence had increased 13 per cent over the same period of 2013. In the first eight months of 2014, there were 469 incidents relating to settler activity. In 2013, 34 per cent of those displaced by administrative demolitions were Palestine refugees, compared with a rate of 41 per cent in 2012. During the period from January to August 2014, at least 827 Palestinians were displaced, of whom at least 257 were registered refugees. Settlement expansion plans, including east of Jerusalem, have caused grave concern for the Palestine refugee community, including for some 2,300 Bedouin Palestine refugees who are at risk of further displacement.

19. In the West Bank, UNRWA staffing and operational costs continue to rise. Of particular concern is the increasing cost of hospitalization, which rose by 111 per cent between 2007 and 2013 ($3.5 million to $7.4 million). In 2013, the UNRWA West Bank field office completed its Emergency Appeal Transition, in which non-critical humanitarian activities were cut. This resulted in the non-renewal of some 115 employment contracts. Humanitarian funding has decreased from approximately $40 million in 2013 to $23 million in 2014. This has meant that cash-for-work opportunities through the job creation programme are being implemented only to the benefit of Palestine refugees residing in camps. In collaboration with the World Food Programme, the UNRWA West Bank field office has developed a food voucher system to support food insecure refugees outside of camps. If this change had not been implemented, the funding for the cash-for-work programme would have been exhausted by July. Given the substantial changes to the emergency appeal through the transition and the reform of the cash-for-work programme in the past two years and the reaction of beneficiaries to the perceived reduction in services, it is critical that adequate funding is available for 2015. Further cuts would impact the scale of food security programming (the number of food insecure household receiving no assistance would rise) and critical services such as mobile health clinics would need to be reviewed. The West Bank Crisis Intervention Unit, which provides financial subsidies and psychosocial support to Palestine refugees affected by Area C demolitions, settler violence or damage by Israeli security forces, has faced funding uncertainty in 2014.

20. The Working Group noted that, in March 2014, UNRWA launched an emergency appeal for $300 million, of which 85 per cent would cover activities in the Gaza Strip and 15 per cent would cover activities in the West Bank. To sustain the most critical emergency operations in Gaza, UNRWA requires at least $118 million, the majority of which is needed for food aid. As at 31 August 2014, UNRWA had received pledges totalling only $111.1 (37 per cent of the emergency appeal target). In the light of this critical funding situation, UNRWA has been forced to make difficult choices and implement significant cuts in the emergency programme. Since September 2013, UNRWA has suspended the school feeding programme, which provided one meal per day to the nearly quarter of a million UNRWA students in Gaza. An important psycho-social programme for children has also been cancelled. These programmes will not resume if the funding shortfall is not covered and food assistance for the remainder of the 2014 programme will not likely be sustained. Over the past few months, beneficiaries and refugee popular committees have held frequent demonstrations outside UNRWA Relief and Social Services Offices in protest against the implementation of the poverty survey results, which were perceived as a cut in assistance by the Agency. Some offices, in addition to protests and sit-ins, have been vandalized with anti-UNRWA graffiti. Demonstrations in April 2013 in Gaza in response to ending a small cash subsidy programme led to significant unrest, incursions into the UNRWA compound and the closure of various installations. A stoppage of food aid for funding reasons would seriously undermine the UNRWA poverty policy and could lead to popular unrest.

21. The catastrophic conflict in the Syrian Arab Republic has exacerbated the refugees' vulnerability and threatens to unravel the fabric of the Palestine refugee community there. UNRWA explained to the Working Group that, since December 2012, all 12 Palestine refugee camps in the Syrian Arab Republic had been deeply affected by the conflict or its consequences. As at September 2014, over 270,000

Palestine refugees are displaced within the Syrian Arab Republic, and a recent survey revealed that over 54,000 refugee homes have been destroyed or damaged. Some 63,000 Palestine refugees are in hard-to-reach areas, including 18,000 in Yarmouk to whom UNRWA has had only limited access since July 2013. Coping mechanisms almost entirely consist of staying with host families in safer camps and gatherings, compounding existing vulnerabilities. The Agency stated that the point had been reached at which it needed to assist the entire Palestine refugee population from the Syrian Arab Republic of 540,000 persons. UNRWA has continued its programme of humanitarian assistance in the Syrian Arab Republic through its 18 international and 3,962 area staff. Area staff are the backbone of the UNRWA response and work at great personal risk. As at September 2014, 13 had been killed and 28 were detained or missing. UNRWA operations in the Syrian Arab Republic provide a critical programme of humanitarian assistance to Palestine refugees, whose options for refuge and relief are limited both within and outside the country. Some 42,000 Palestine refugees from the Syrian Arab Republic have fled to Lebanon, although increased border restrictions have now severely restricted the entry of Palestinians from the Syrian Arab Republic into Lebanon. Some 14,348 have approached UNRWA in Jordan, where the Government maintains a policy of denying entry to Palestinians fleeing the Syrian Arab Republic. The Working Group notes the Security Council presidential statement of 2 October 2013 (S/PRST/2013/15), and calls upon neighbouring countries to maintain open borders for Palestine refugees fleeing the Syrian Arab Republic and thanked those countries that are doing so. It also calls upon all parties to the conflict to respect and maintain the security, neutrality and civilian character of the camps for Palestine refugees in the Syrian Arab Republic.

22. In December 2013, UNRWA launched the Syria Regional Crisis Plan for the amount of $417.4 million, as part of the overall United Nations appeal. The plan covered the requirements for activities in the Syrian Arab Republic, Jordan and Lebanon from January to December 2014. Of the total budget for 2014, $310 million was for programmes inside the Syrian Arab Republic, $90.4 million in Lebanon, $14.6 million in Jordan and $2.4 million for regional management and emergency response outside the above-mentioned three fields of operations. As at 10 September 2014, against the total 2014 budget requirements, UNRWA had received pledges in the amount of $147.8 million, 44 per cent of the total, of which $130.4 million had been spent. The lack of funding is raising serious challenges to the UNRWA humanitarian operations in the Syrian Arab Republic. UNRWA has reduced the number of planned cash assistance rounds from six to four, with the possibility of further reductions unless funding is received. Core services are similarly strained, with the surrounding conflict introducing substantial additional costs, particularly in relation to health care and education for Palestine refugees. Without increased contributions, there is a high risk of significantly increased deprivation and humanitarian need among this acutely vulnerable population.

23. The Agency also provided an update to the Working Group on the situation and financial challenges that it is facing in Lebanon. The fierce conflict from May to September 2007 in the vicinity of the Nahr el-Bared refugee camp in northern Lebanon resulted in the destruction of the entire camp, leaving 27,000 people displaced and homeless. Severe damage was also caused to adjacent areas. The task of rebuilding the camp and assisting the 27,000 displaced refugees was one of the largest ever undertaken by the United Nations. Most of the displaced continue to

live in temporary accommodation. Most are renting their own accommodation, supported by UNRWA rental subsidies. While donors have responded relatively generously to the appeals launched to date by UNRWA to support those displaced, by the end of 10 September 2014, the shortfall of funding for the 2014 Nahr el-Bared Camp Relief Appeal was $6 million (of the total $8.7 million). UNRWA is committed to providing relief support to the displaced families until full reconstruction is completed, provided funding is made available by donors. Because of the continued shortfall in funding, UNRWA is engaging with the community and leadership of the local Palestinian political factions to agree on ways to reduce service costs.

24. The total amount needed for the reconstruction of the camp is $345 million. As at September 2014, including funds received through the multi-donor trust fund administered by the World Bank, firm pledges totalled $188 million. The reconstruction project is divided into eight phases or "packages". While the amount contributed to date is sufficient to cover the construction of residential and commercial units and related infrastructure outlined in packages 1, 2, 3 and most of package 4, in addition to five of six school buildings and a health centre within the UNRWA compound, the balance of $157 million needs to be raised to complete all eight packages (45 per cent of the total amount required). As at 10 September 2014, 1,551 families received the keys to their reconstructed homes in packages 1, 2 and 3 and 450 shop owners were able to return to their stores, while a total of 2,527 families are expected, on the basis of currently available funding for reconstruction, to return to their homes in the camp by the end of 2015. The Working Group encourages UNRWA to continue with its comprehensive camp improvement initiative, which is intended to upgrade living conditions in the other 11 Palestine refugee camps in Lebanon, a project fully supported by the Government.

25. In December 2010, a socioeconomic survey of Palestine refugees in Lebanon conducted by UNRWA in partnership with the American University of Beirut revealed that two thirds of Palestine refugees in Lebanon were poor and 7 per cent were extremely poor. While the Working Group welcomes the amendments to the labour and social code already agreed on by the Parliament of Lebanon in 2010, it urges the Lebanese authorities to fully implement those amendments by issuing the decrees necessary to facilitate the work permit formalities and access of Palestinian workers to the Lebanese labour market, pending a just and durable solution to the plight of Palestine refugees.

26. In common with other neighbouring countries, Lebanon has experienced a growing influx of refugees from the Syrian Arab Republic since the summer of 2012. The number of Palestine refugees from the Syrian Arab Republic in Lebanon rose from a handful in July 2012 to approximately 42,000 in September 2014. The influx continues to put enormous strain on UNRWA operations and poses a major challenge for the Agency, given that it is already struggling to maintain services for Palestine refugees in Lebanon. Palestine refugees from the Syrian Arab Republic fall under the mandate of UNRWA and have no access to public health, education or relief services. UNRWA provides the same services to refugees from the Syrian Arab Republic as those received by Palestine refugees established in Lebanon. In addition, they receive food and cash assistance for housing. The most recent appeal, launched jointly with the Office of the United Nations High Commissioner for Refugees for the period January-December 2014, asked for $90.4 million for UNRWA Lebanon, with the planning assumption that 55,000 Palestine refugees

from the Syrian Arab Republic would be in Lebanon by the end of 2014. As at 10 September 2014, the pledges made for Palestine refugees from the Syrian Arab Republic in Lebanon totalled $21.1 million.

IV. Concluding remarks

27. The Working Group reiterates its belief that UNRWA continues to play a vital role in providing assistance to Palestine refugees and in contributing to the stability and security of the region. To assist in meeting this strategic goal, adequate multinational funding of the Agency's programmes, in accordance with the changing needs of the refugee community and in line with the comparable level of services provided by host authorities to their own citizens and with due consideration for developments affecting security, socioeconomic and humanitarian conditions is essential. In this regard, the Working Group welcomes the Agency efforts to build on the programmatic and management reforms and to pursue a comprehensive resource mobilization strategy.

28. The Working Group notes with grave concern the large funding gap anticipated for the UNRWA General Fund in 2014, and reiterates that it is above all the responsibility of the General Assembly and the international community to ensure that the Agency services are maintained at an acceptable level, in quantitative and qualitative terms, and that funding keeps pace with the changing needs and growth of the refugee population.

29. The Working Group encourages the Assembly to keep the programme budget for the biennium 2014-2015 under review so as to ensure that the Agency's ability to deliver vital services to the Palestine refugees will not be impaired. In this regard, the Working Group calls upon the Assembly to continue supporting the strengthening of UNRWA. The Working Group reiterates its serious concern that, if adequate resources are not provided to the Agency, not only will achievements from the comprehensive reforms of the Agency's work be put at risk, but the capacity of UNRWA to fully implement its mandate will also be in jeopardy.

30. The Working Group recognizes the Agency efforts to improve its efficiency and urges the Agency to continue its management reform process in order to enhance its ability to efficiently use resources and implement change for more effective delivery of services to its beneficiaries. As recommended by the Advisory Commission at its meeting, on 16 June 2013, the Working Group commends UNRWA for the steps to monitor and evaluate these reforms against value for money indicators, which will help to show that UNRWA is delivering services as effectively and efficiently as possible. The Working Group also encourages UNRWA to continue to implement its resource mobilization plan for greater financial sustainability. The Agency commitment to implementing its resource mobilization plan and achieving efficiencies is key to addressing its financial issues, along with the commitment of donors to maintaining their share of the burden.

31. In view of the difficult humanitarian conditions in the occupied Palestinian territory, the Working Group recognizes the essential humanitarian role played by the Agency's emergency operations in alleviating the hardship of the refugees and in mitigating further decline in their living conditions, in particular in times of increased instability and crisis. It urges all potential donors, traditional and

non-traditional, to redouble their efforts to fully respond to the Agency's emergency appeal for 2014 and to the Gaza flash appeal.

32. The Working Group reiterates its concern about the continued tight restrictions on the movement of UNRWA staff and humanitarian goods into and out of the occupied Palestinian territory, between Gaza and the West Bank and within the West Bank. It calls upon the Government of Israel to accord the Agency free and unfettered access and underlines the need to further simplify the approval process by which the Agency transports humanitarian materials into Gaza. The Working Group supports the further opening of Gaza crossings to allow the unimpeded flow of humanitarian aid, commercial goods and persons to and from Gaza, consistent with Security Council resolution 1860 (2009).

33. The Working Group commends the Commissioner-General and all UNRWA staff for their tireless efforts to maintain the regular and emergency services of the Agency under very difficult operational circumstances. In particular, it commends the Commissioner-General for the Agency's fundraising efforts, and his commitment to building relations with donors, traditional and non-traditional, to obtain the funding UNRWA needs, and to developing a relationship of trust and transparency with host authorities and donors. The Working Group is gratified by the increased General Fund contributions of a growing number of non-traditional donors. The Advisory Commission, in the recommendations of its meeting in November 2013, urged UNRWA to sustain efforts regarding resource mobilization and increase actions to establish partnerships with other stakeholders. It also encouraged UNRWA to continue and increase efforts to expand the donor base and raise new resources, in particular in follow up to the 2013 September meeting in New York with supporters of UNRWA, including the League of Arab States.

34. The Working Group calls for the early and complete fulfilment of outstanding donor pledges to UNRWA. It also takes note of the importance for the Agency's planning purposes of early payment of pledges, coupled, where possible, with multi-year funding commitments.

35. The Working Group continues to welcome the Agency's financial reforms and increased transparency, which have placed UNRWA at the forefront of the United Nations agencies implementing change. UNRWA is one of the few agencies that has introduced a rigorous closure of monthly accounts, a step forward acknowledged by the Board of Auditors. The Working Group also commends the Agency for the implementation of the International Public Sector Accounting Standards and takes note that the Agency's reports became compliant with those standards as from 1 January 2012.

36. The Working Group notes with concern the lack of funding for the Agency projects, which constitute the third portal through which the Agency receives funding (along with the General Fund and emergency appeals). It encourages all Governments to increase their funding to all portals. In particular, the Working Group is alarmed by the inadequate funding of the reconstruction of the Nahr el-Bared camp in Lebanon, the Agency's largest project. The Working Group calls upon all donors, including countries in the Middle East, to lend their full support to reconstruction and relief operations until the camp is rebuilt, given that failure to do so risks having serious consequences for the security of refugees and the stability of Lebanon and of the region.

37. The Working Group also thanks UNRWA staff in the Syrian Arab Republic for their efforts to maintain service delivery and UNRWA operations, despite being affected by the conflict and taking on great personal risks. The Working Group expresses serious concern about the situation of Palestine refugees in the Syrian Arab Republic. It condemns all forms of violence against this vulnerable community, and encourages the international community to fund, to the greatest extent possible, the requirements stated in the Agency's response plans to support the Palestine refugees inside and outside the Syrian Arab Republic. It calls for sustained, regular and continuous provision of humanitarian supplies, notably food and medicines to besieged and hard-to-reach areas, notably Yarmouk. It also encourages all parties to the conflict to preserve the neutrality of the Palestine refugee community in the Syrian Arab Republic.

38. The Working Group reiterates that the humanitarian problems faced by the Palestine refugees today must be addressed as a shared international responsibility pending a just, final and comprehensive settlement of the Israeli-Palestinian conflict in accordance with international legality, including relevant United Nations resolutions. The services provided by UNRWA provide the minimum support necessary for the refugees to lead healthy and productive lives until there is a just and durable solution to their plight. Any reduction in the services could have a destabilizing effect on the entire region. The Working Group expresses the hope that the international support for UNRWA embodied in the resolutions adopted each year by the General Assembly, in which the Assembly recognizes the importance of the work of the Agency, will be translated into increased financial support to ensure the continuation of the work of the Agency on a sound financial basis.

39. The Working Group strongly urges all Governments to bear in mind the foregoing considerations when deciding upon the level of their contributions to UNRWA for 2014 and 2015. The Working Group once again:

(a) Urges those Governments that have not yet contributed to UNRWA, in particular to its General Fund, to do so on a regular basis;

(b) Urges Governments that have made only relatively small contributions or contributions that have not kept pace with increased needs to raise the level of their support;

(c) Urges Governments that in the past have made generous contributions to the UNRWA General Fund and emergency budget to continue to do so in a timely manner and to strive to increase them;

(d) Urges Governments that in the past have made generous contributions to the UNRWA General Fund and emergency budget and have recently reduced or ceased their contributions, to resume their support to the Agency;

(e) Urges Governments that traditionally have shown special interest in the welfare of the Palestine refugees, both in the region and beyond, to contribute to UNRWA or to increase their existing contributions, in particular to the UNRWA General Fund;

(f) Urges Governments that are members of the League of Arab States to fulfil their engagement to achieve and sustain the 7.8 per cent target of contributions to the core budget of UNRWA;

(g) Urges Governments to fully fund the UNRWA General Fund for the biennium 2014-2015, to ensure that the real value of contributions to the Agency is maintained and that donor support for emergency-related and special projects in no way decreases contributions to the General Fund;

(h) Urges donor Governments, where possible, to put in place increased multi-year funding to allow UNRWA to better plan its activities;

(i) Encourages all Member States to consider the report of the Secretary-General (A/65/705) and all resolutions relating to the financing of UNRWA;

(j) Highlights the need to identify potential sources of funding to meet the severance payment obligations of UNRWA.

United Nations A/69/392

General Assembly

Distr.: General
24 September 2014

Original: English

Sixty-ninth session
Items 16, 17 (a), 17 (b), 17 (c), 18, 19 (a), 19 (c), 19 (d), 19 (e), 19 (f), 19 (g), 19 (h), 19 (i), 20, 21 (a), 22 (a), 23 (a), 23 (b), 23 (c), 24 (a), 24 (b) and 25

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Operational activities for development: South-South cooperation for development

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Letter dated 17 September 2014 from the Permanent Representative of Benin to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith the Ministerial Declaration adopted at the ministerial meeting held in Cotonou, Benin, from 28 to 31 July 2014 on "New partnerships for productive capacity-building in least developed countries" (see annex), on the initiative of the Government of Benin, in its capacity as Chair of the Group of Least Developed Countries, in close cooperation with the United Nations, represented by the Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States.

This Ministerial Declaration is entitled: "Cotonou Agenda for productive capacity-building in the least developed countries".

In paragraph 12 of the Declaration, the General Assembly is invited to include an agenda item entitled "New partnerships for building productive capacities in least developed countries" during its sixty-ninth session. The President of the General Assembly will be notified of this request in due course.

I would be grateful if the present letter and its annex could be circulated as a document of the sixty-ninth session of the General Assembly, under agenda items 16, 17 (a), 17 (b), 17 (c), 18, 19 (a), 19 (c), 19 (d), 19 (e), 19 (f), 19 (g), 19 (h), 19 (i), 20, 21 (a), 22 (a), 23 (a), 23 (b), 23 (c), 24 (a), 24 (b) and 25.

(*Signed*) Jean-Francis R. **Zinsou**
Ambassador
Permanent Representative of Benin to the United Nations
Chairman of the Global Coordination Bureau of
Least Developed Countries

Annex to the letter dated 17 September 2014 from the Permanent Representative of Benin to the United Nations addressed to the Secretary-General

Cotonou Agenda for productive capacity-building in least developed countries

Cotonou, 31 July 2014

1. We, ministers and representatives of the least developed countries have met in Cotonou, Republic of Benin, from 28 to 31 July 2014, on the theme "new partnerships for productive capacity-building in least developed countries". We collectively committed ourselves at the conference to finding lasting solutions to the complex and mutually exacerbating structural challenges and problems faced by least developed countries, which constitute the poorest and most vulnerable group of countries;

2. We welcome the participation at the meeting of a number of development partners and while appreciating their ongoing support, strongly call upon them for renewed and strengthened global partnerships for achieving eight priority areas of the Programme of Action for the Least Developed Countries for the Decade 2011-2020, in particular productive capacity-building;

3. We call for enhanced support to least developed countries to achieve the overarching goal, set out in the Programme of Action, of enabling half of them to meet the criteria for graduation by 2020 by removing structural constraints through the eradication of poverty and the achievement of accelerated, sustained, inclusive and equitable growth and sustainable development. This requires effective national government policies and commitments, enhanced global support and appropriate mechanisms at all levels;

4. We also call for genuine solidarity with the aspirations expressed by the least developed countries during the conference with a view to fostering and strengthening new partnerships for productive capacity-building in the least developed countries. We underscore the need for further strengthening global partnerships for least developed countries to build viable and competitive productive capacity in agriculture, manufacturing and services sectors;

5. We recognize that least developed countries represent an enormous human and natural resource potential for world economic growth, welfare, prosperity and food and energy security. Therefore, a successful, renewed and strengthened global partnership that effectively addresses the special needs of least developed countries will contribute to the cause of peace, prosperity and sustainable development for all. Further strengthening of our collective actions towards enabling least developed country young populations and women will more effectively contribute to equitable and inclusive development, poverty eradication, job creation and social justice;

6. We note that least developed countries face a number of structural and systemic challenges, which include widespread extreme poverty, inadequate infrastructure, geographical handicaps, deficit of human, institutional and productive capacity and acute susceptibility to external shocks, which constrain the realization of their high potential and hinder full fruition of the efforts of these

countries and their development partners to improve the quality of life of their peoples;

7. We acknowledge that productive capacity-building requires substantially upgrading human and institutional capacity-building, enhanced investment in physical infrastructure development, improved access to energy, which should be accompanied by improved trade, investment and development finance at all levels, including at the local level, enhanced capacity in the areas of entrepreneurship, technology and innovation and financial services;

8. We stress that productive capacity-building should be considered within a sustainable development policy framework that supports structural transformation as a means for increasing economic, environmental and social development and building resilience. The sustainable development goals and post-2015 development agenda should offer useful guidance and direction towards a policy framework for productive capacity-building for least developed countries that is grounded in the principles of sustainable development;

9. We note that the Cotonou conference provides a major platform for countries of the North and the South, United Nations system organizations, the World Bank Group and regional financial institutions and the private sector to articulate a sharper policy focus on key areas of productive capacity-building and showcase specific examples and concrete initiatives to bring about transformative shifts in least developed country economies and to announce new initiatives and specific support measures for least developed countries to give a decisive impetus to their efforts towards building productive capacities by creating needed synergy and coherence;

10. We welcome decision No. 465 of the twentieth African Union Summit held in January 2013 establishing the South-South and Triangular Coalition for post-2015 Africa and call on emerging and industrialized countries, international organizations, United Nations system agencies and development banks to provide technical, material, human and financial support to enable Africa, comprising 34 out of 49 least developed countries of the world and being the weakest link in the current international development mechanism, to really involve in the emergence process;

11. We stress that the following critical issues and actions relating to productive capacity-building should be addressed as a matter of urgency with a view to ensuring full and timely implementation of the Programme of Action:

i. For full and timely implementation of the eight priority areas of the Programme of Action, especially productive capacity-building, least developed countries need additional, preferential, concessional and most favourable treatment for their access to markets, finance, technologies, know-how and other resources and differential and flexible treatment in undertaking international commitments and obligations that are not commensurate with their capacity, needs and stage of development, to be called "differential and preferential treatment for least developed countries ". This principle should be applied in the articulation of the post-2015 development agenda and the sustainable development goals as well as all other relevant processes. In this regard, it is recognized that the recent outcome of the Open Working Group on Sustainable Development Goals has acknowledged this principle, although

some key concerns of least developed countries, especially in the area of means of implementation, remain to be fully addressed in the post-2015 development agenda and sustainable development goals;

ii. The global economy has been facing a challenging time for several years now, and the ongoing global economic and financial crises have had serious adverse effects on least developed country economic performance, as evidenced by substantial deceleration of their recent growth rate compared with the progress made during the past decade with serious effects on the timely and effective implementation of the goals and targets of the Programme of Action;

iii. Least developed countries are highly exposed to climate vulnerability and disproportionately affected by its adverse impacts due to their location, low income, low institutional capacity, and greater reliance on climate-sensitive sectors like agriculture. This is exacerbated by desertification, land degradation, drought, floods, cyclones and other natural and man-made disasters; least developed countries must be provided with adequate levels of resources in order to enhance their resilience to climate change;

iv. Consequently, it is vitally important to reorient the macroeconomic, industrial, agricultural, rural and infrastructure policies of least developed countries, as well as the development cooperation policies and strategies of the development partners, towards the development of productive capacities, strengthening of related institutional and human capacities and fostering of public sectors including public-private partnerships. This involves implementing a range of mutually supportive policies aimed at building productive capacity and beneficial linkages with global value chains and dynamic sectors of world trade;

v. The demographic transition is key to building human capital and harnessing the demographic dividend. To this end, there should be strengthened collective efforts by least developed countries and their development partners to realize the demographic dividend in least developed countries by pursuing effective policies and actions on education, training, employment, primary health, including voluntary family planning, girls and women empowerment, gender equality and issues of development related to youth;

vi. It is of utmost importance to effectively and collectively address challenges and problems that constrain the growth, expansion and functioning of least developed country firms, particularly small and medium-sized enterprises, including through strengthening the credibility and independence of financial and regulatory institutions, increasing transparency, fostering fair competition, and by strengthening knowledge systems, including innovation, education, technological learning and upgrading, and research and development;

vii. Least developed countries have huge reserves of precious mineral resources and they don't have necessary capacity, expertise and skills for mineral exploration. The development partners should provide adequate financial, technical and technological support to least developed countries to build their own capacity for mapping, exploration and transformation of

natural resources with a view to deriving maximum benefits out of their own resources. Least developed countries also need stronger support in investment negotiation contracts with foreign investors;

viii. A dynamic, broad-based, well-functioning and socially responsible private sector is a valuable instrument for increasing investment and trade, employment and innovation, thereby generating economic growth and eradicating poverty and serving as an engine for industrialization and structural transformation. The development and trading partners should adequately support least developed country efforts to strengthen the institutional and managerial capacities and the productivity of small and medium-sized enterprises and to facilitate both national and global private sector investment in least developed countries, including by strengthening regulatory frameworks and knowledge systems, such as innovation, education, technological learning and upgrading, and research and development;

ix. The private sector is a key partner in this transformation process, and a more conducive enabling environment will help harness the full potential of the private sector in creating jobs and enhancing national capacity. In this context, the development of access to financial services plays a critical role in enhancing the competitiveness, in particular of small and medium-sized enterprises. This should be complemented by strengthening the institutions of the State at all levels including local communities, especially in relation to policy, regulatory and monitoring frameworks, with a view to building major and critical infrastructure and adequately supporting economic transformation including the development of the private sector.

x. Commodity diversification and value addition as well as effective participation of least developed countries in regional and global value chains represent a critical aspect of the efforts of these countries in reversing their marginalization, building productive capacities, accelerating structural transformation and generating decent jobs with quick impact on poverty eradication. Equally important is to gainfully link into global value chains by upgrading and increasing the domestic value-added content of least developed country exports so that the commensurate production-linked gains are not lost. These require strategic policy interventions at the national, regional as well as at the sectoral level. In this regard, regional cooperation and integration can play a catalytic role;

xi. The development of physical infrastructure is an important prerequisite for sustained economic growth and sustainable development. Significant amount of investment and technology is essential, including through public-private partnerships, innovative financing, regional integration and appropriate institutions and regulation, to bridge the gap. It is equally important to strengthen the underlying investment climate, with enhanced technical support of the development partners and international financial institutions, including by improving predictability, governance and transparency, as well as in procurement practices and policies. Development partners should provide enhanced financial and technical support to least developed countries for their infrastructure development and management;

xii. Bringing about structural transformation in the economies of least developed countries would require transfer, acquisition and the upgrading of

technologies, including new technologies/broadband, domestic capacity and a knowledge base. In this regard, the decision of the General Assembly[1] with regard to a technology bank and science, technology and innovation-supporting mechanism dedicated to least developed countries is a much needed welcome development. The Secretary-General is requested to constitute the high-level panel of experts as soon as possible, so that it can conclude its work within the required deadline with a view to fully operationalizing the technology bank as soon as possible. Turkey's decision to contribute $200,000 for the establishment of the technology bank and the science, technology and innovation supporting mechanism is warmly welcomed and other donor countries are invited to make contributions to the technology bank;

xiii. The Istanbul Declaration and the Istanbul Programme of Action recognize the importance of the development of information and communications technologies (ICT) for building viable productive capacity in least developed countries, and for significantly increasing access to telecommunication services to provide 100 per cent access to the Internet by 2020. All stakeholders should continue to work together to forge partnerships and harness telecommunication/ICTs/broadband as an enabler across all sectors to drive the development of the least developed countries for building viable productive capacities;

xiv. The messages contained in the communiqué of the high-level event on sustainable energy for the least developed countries, held in New York on 23 September 2013, are key to removing the least developed country energy gap. The launch in Cotonou on 28 July 2014 of the United Nations Decade on Sustainable Energy for All is a welcome initiative in which least developed countries received a special focus throughout the decade. The United Nations Secretary-General's Sustainable Energy for All initiative, including its targets and the recently held forum will remain a useful framework in the field of energy for the crucial decades ahead;

xv. The establishment of dedicated Sustainable Energy for All hubs by the African Development Bank, the Asian Development Bank and the Inter-American Development Bank to address challenges and opportunities at the country level is an important step in the right direction. All actors involved, including development partners, United Nations system organizations, the World Bank Group and other international and regional organizations should work together to develop and establish a common global goal on energy as part of the sustainable development goals for the post-2015 development agenda which should provide a specific focus on least developed countries. There is also a need for a long-term, global energy framework, under the umbrella of the United Nations, in order to lead resource mobilization and implementation in support of relevant goals under the post-2015 development agenda with a focus on least developed countries;

xvi. South-South cooperation, as a complement to North-South cooperation, is vital to least developed countries, particularly in regard to technical assistance, sharing of best practices in terms of their development, especially

[1] United Nations General Assembly resolution 68/224.

in areas of productive capacity-building infrastructure, energy, science and technology, trade, investment and transport cooperation;

xvii. The launching of a South-South Technology Transfer Facility for least developed countries is welcomed, whereby the United Nations Office for South-South Cooperation's South-South Global Assets and Technology Exchange global platform will be utilized. The Facility will provide continuity beyond the Cotonou conference by commencing a three-year pilot programme focused on technology transfer to least developed countries and the setting-up of a South-South investment fund for least developed countries. Additional country centres within least developed countries will also be recruited to support the Facility's operations and link with the South-South Global Assets and Technology Exchange global network;

xviii. Official development assistance (ODA) continues to be the largest and critical source of external financing for the development of least developed countries and provides a buffer to weather the impacts of the unstable and volatile global economic environment. There is a shared serious concern over the fall in ODA to least developed countries by 9.4 per cent in real terms in 2012. However, it is encouraging that the bilateral net ODA to least developed countries is estimated to have increased by 12.3 per cent in 2013 according to a preliminary estimate of the Organization for Economic Cooperation and Development (OECD) and this positive trend should further accelerate. Donor countries that have fulfilled ODA commitments are commended and urged to do more. Donor countries that have not yet done so are called upon to fulfil their ODA commitment of 0.15 to 0.20 per cent of gross national income to least developed countries at the earliest and they should review their ODA commitments, as committed in the Programme of Action, and to allocate at least 50 per cent of ODA and the Aid for Trade disbursement to least developed countries taking into account the unique structural handicaps and constraints faced by least developed countries;

xix. The development partners should take action to fully operationalize the Green Climate Fund as soon as possible with a goal of mobilizing $100 billion per year by 2020 and the promotion and facilitation of clean development mechanism projects in least developed countries. It is noted with appreciation that the World Bank Group, through the International Development Association (IDA), has taken steps to recognize this vulnerability and has included a set of policy commitments in this replenishment cycle to integrate the management of climate and disaster risks in all country partnership frameworks and operations, as well as to develop multi-sector plans and investments. The World Bank Group is invited to extend its financial and technical support, through IDA, for infrastructure and productive capacity-building as well as adaptation and resilience-building of all least developed countries;

xx. Desertification, land degradation, drought, floods, cyclones, coastal erosion driven by sea level rise, salinization and other natural disasters are major obstacles for least developed countries to achieve sustainable development. There should be enhanced financial and technological support from the development partners, development banks and Global Environment

Facility to address desertification, soil infertility, droughts, floods, coastal erosion and salinization and to secure a land-degradation neutral world;

xxi. The importance of mobilizing resources from a variety of sources is highlighted, which should be additional to ODA, and should be substantial and predictable and disbursed in a manner that respects the priorities and special needs of least developed countries and not unduly burden them. Least developed countries underlined the need for pursuing a broad strategy to generate additional resources beyond ODA to finance their development, a strategy that includes, among others, improved domestic resource mobilization, increased domestic and foreign investment and inclusive finance, and support for enhanced mobilization and more productive use of skills and financial resources of the diaspora;

xxii. The World Trade Organization member States should provide duty-free, quota-free market access, on a lasting basis, for all products originating from all least developed countries; adopt simple, transparent and flexible preferential rules of origin applicable to imports from least developed countries; resist protectionist tendencies and rectify trade-distorting measures, including in agriculture, that are inconsistent with multilateral obligations; and eliminate arbitrary or unjustified non-tariff and para-tariff barriers;

xxiii. Development partners should provide stronger support to least developed countries to build their trade and supply-side capacity by significantly increasing the share of assistance through the Aid for Trade initiative, by continuation of the Enhanced Integrated Framework beyond its current phase with enhanced resources and an expanded mandate and strengthening their capacity to access available resources, in support of the needs and demands of least developed countries expressed through their national development strategies, as agreed upon in the Istanbul Programme of Action;

xxiv. The Heavily Indebted Poor Countries Initiative and the Multilateral Debt Relief Initiative have created additional fiscal space in many least developed countries. However, there are risks of re-indebtedness because of huge development needs in least developed countries. It is a matter of deep concern that in spite of these two initiatives, many least developed countries still struggle with a high debt burden. There is a need to undertake effective measures, in particular through full cancellation of multilateral and bilateral debts owed by all least developed countries to creditors, both public and private. The need for appropriate debt workouts and debt standstill for least developed countries is also underscored. Least developed countries also call upon creditors, both public and private, for additional effective measures to facilitate financing of their economic development, including access to both concessional and non-concessional resources for investment in critically needed infrastructure and development projects;

xxv. It is recalled that there is a decision contained in the Istanbul Programme of Action, and reaffirmed in General Assembly resolution 67/220, to adopt, expand and implement investment promotion regimes for least developed countries. A concrete way to help stimulate foreign direct investment in least developed countries will be to provide a one-stop arrangement through an international support centre under the auspices of the United Nations, which can make available the following interrelated and mutually reinforcing

services: (i) an information depository for investment facilities in least developed countries; (ii) technical support to assist least developed countries in negotiating complex large-scale contracts; (iii) advisory support in dispute resolution; and (iv) risk insurance and guarantees in close collaboration with the Multilateral Investment Guarantee Agency and OECD;

xxvi. The International Migrant Remittances Observatory for Least Developed Countries should be operationalized without further delay with the support of the development partners;

xxvii. The United Nations system organizations, the World Bank Group and other multilateral and intergovernmental organizations should continue to expand and strengthen their work on policies and strategies, as well as their technical cooperation activities, for building productive capacities, enhancing diversification and value addition, improving the competitiveness of least developed countries. The Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States should ensure that the issues of productive capacity are regularly considered within the Inter-Agency Consultative Group mechanism with a view to ensuring United Nations system-wide coherence and coordination;

xxviii. The United Nations system organizations, including the World Bank Group, should undertake a feasibility study, in collaboration with the Office of the High Representative, with the aim of introducing "diaspora bonds" for least developed countries;

xxix. The development partners should support least developed countries to establish national and subregional development finance institutions to plug the commercial finance gap, and encourage innovation and the growth of job-creating small, medium-sized and micro enterprises, including through the development of government loan guarantee programmes;

xxx. It has been registered with satisfaction that a number of important initiatives were announced during the conference, including:

(a) United Nations Decade on Sustainable Energy for All with special focus on least developed countries;

(b) International Investment Support Centre for least developed countries;

(c) Regional centres of the technology bank in the context of ongoing work of the technology bank for least developed countries;

(d) South-South Technology Transfer Facility for least developed countries;

(e) Diaspora bonds for least developed countries guaranteed by the international financial institutions and regional banks;

(f) A new initiative of the Group of Seven on strengthening assistance for complex contract negotiations to provide least developed countries with extended and concrete expertise for negotiating complex commercial contracts focusing initially on the extractive industries;

(g) Local finance initiative to promote domestic investment in productive infrastructure at the local level.

12. We underline the importance of the Cotonou Agenda for productive capacity-building in least developed countries and invite all stakeholders to take appropriate actions for its implementation and follow-up. We invite the General Assembly to include an agenda item entitled "New partnerships for building productive capacities in least developed countries" during its sixty-ninth session;

13. We express our profound gratitude to the President of Benin, Boni Yayi, for his full support and inspiring message to the conference. We also thank the Chairperson of the African Union Commission, Dlamini Zuma, for her highly encouraging address to the participants and commitment of support to least developed countries. We thank the Government of the Republic Benin for organizing this meeting and for its generous hospitality extended to us during our stay in Cotonou. We express our gratitude to the Governments of Germany, Turkey, New Zealand, the Netherlands, Norway, Italy and Spain for their generous contributions to the successful organization of the conference. We note with appreciation the substantive support and financial contribution of the Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States, the United Nations Development Programme and the United Nations Office for South-South Cooperation;

14. We also note with appreciation the active participation and substantive contributions of other development partners, United Nations system organizations, including the United Nations Conference on Trade and Development, the World Bank Group, the United Nations Capital Development Fund, the United Nations Convention to Combat Desertification, the United Nations Industrial Development Organization, the World Intellectual Property Organization, the United Nations Population Fund, the International Telecommunication Union, the International Labour Organization, the United Nations Environment Programme, the United Nations Entity for Gender Equality and the Empowerment of Women, the Enhanced Integrated Framework, the Sustainable Energy for All initiative, and other bodies and entities, especially, OECD and the African Union Commission. We also express our thanks to the private sector, civil society, non-governmental organizations, in particular the International Institute for Environment and Development, and to other stakeholders.

United Nations A/69/393

General Assembly

Distr.: General
19 September 2014

Original: English

Sixty-ninth session
Agenda item 112 (c)
Elections to fill vacancies in subsidiary organs and other elections: election of fifteen members of the Human Rights Council

Note verbale dated 16 September 2014 from the Permanent Mission of Bangladesh to the United Nations addressed to the President of the General Assembly

The Permanent Mission of the People's Republic of Bangladesh to the United Nations presents its compliments to the President of the General Assembly and, with reference to the candidature of Bangladesh to the Human Rights Council for the term 2015-2017, has the honour to forward herewith voluntary pledges of the Government of Bangladesh.

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Annex to the note verbale dated 16 September 2014 from the Permanent Mission of Bangladesh to the United Nations addressed to the Secretariat of the General Assembly

Candidature of Bangladesh to the Human Rights Council, 2015-2017

Voluntary pledges and commitments pursuant to General Assembly resolution 60/251

1. Respect for human rights and fundamental freedom is deeply rooted in the history and society of Bangladesh. As a secular democracy, Bangladesh is firmly committed to the principle of a pluralistic society nurtured through genuine and constructive dialogue, and cooperation and mutual respect for one another. This conviction is embedded in the core values of its Constitution, which is based on the realization that development and the well-being of citizens can be guaranteed only through a culture of protection and promotion of human rights. The preamble of the Constitution invokes the core values of the Universal Declaration of Human Rights and pledges that it shall be a fundamental aim of the State to realize "a society in which the rule of law, fundamental human rights and freedom, equality and justice, political, economic and social will be secured for all citizens".

2. Bangladesh considers all human rights as universal, indivisible, interrelated, interdependent and mutually reinforcing. It also believes that constructive dialogue and cooperation among members of the United Nations form the basis for an effective tool for the promotion and protection of human rights. With this conviction, Bangladesh has been participating actively and constructively in the Human Rights Council. Bangladesh deeply values the work of the Human Rights Council and its working groups and mechanisms. Bangladesh is a firm advocate for continued strengthening of the United Nations, including the Human Rights Council and its mechanisms, the treaty bodies and other human rights-related United Nations bodies.

Progresses and achievements in the area of human rights

3. The Constitution of Bangladesh is the supreme law of the country. The fundamental rights envisaged in the Constitution reflect many of the human rights prescribed by international human rights law. It provides for fundamental rights that guarantee, inter alia, equality before law and equal protection of law, protection of life and liberty and prohibition of discriminatory treatment. Specific liberties of speech and expression, thought and conscience, religion, movement, association and assembly, trade and occupation, property, security of home and privacy and respect for international law are also stipulated. Moreover, discrimination on grounds of race, religion, caste or sex is prohibited. Although theoretically considered unenforceable, the Supreme Court has, on a number of occasions, upheld these fundamental principles in protecting the civil, political, economic, social and cultural rights of the citizens.

4. The country is determined to fulfil its constitutional obligations and its international commitments for the promotion and protection of human rights through a wide range of legislative and administrative measures and socioeconomic development programmes. Bangladesh has strived to achieve to the extent possible

the goals stipulated in the voluntary pledges made previously. Some accomplishments at the national level are enumerated below:

- A number of institutional reforms have been undertaken in Bangladesh over the years to strengthen the rule of law and good governance. These actions and initiatives are aimed at further enhancing protection, promotion and effective enjoyment of human rights by all citizens and to allow free functioning of judiciary, media, civil society organizations and political parties. The most important among those is the separation of the judiciary branch from the executive branch to secure the legal framework for an independent judiciary. Bangladesh is convinced that independence of the judiciary is critical to ensuring good governance and rule of law and, by extension, protection of human rights and fundamental freedoms. Bangladesh believes that an independent and impartial judiciary will have far-reaching implications in improving the rule of law and good governance in the country.

- A series of measures including speedy trial of criminal cases, prison reform, legal aid services and alternative dispute resolutions have contributed to strengthening the rule of law and good governance in Bangladesh.

- In order to address the challenges police face in promoting and protecting human rights while in the line of duty, a police reform programme has been in place. The objective of the programme is to enhance the capacity of the law enforcing agencies through supporting key areas of access to justice. In addition, legislative reform has remained under way to replace the colonial era laws by a law responding to a democratic society through incorporating provisions stipulating the code of conduct for police personnel with particular reference to upholding human rights in the discharge of their duties, gender guidelines for treatment of women and children, and punitive and accountable measures for violation of their legal obligations.

- Bangladesh has, through legislative and executive measures, ensured freedom of speech and expression, freedom of press and freedom of thought and conscience. Every citizen enjoys the right to religion, education, association, assembly, occupation, trade, etc. Bangladesh has one of the most independent print and electronic media in the world. Publications of some 544 daily newspapers, 357 weeklies, 62 fortnightlies and 93 monthlies bear the testimony of a vibrant print media of the country. There has also been a considerable growth of private television channels and radios. Nearly 30 private television channels are operating in the country, or are in the offing. The country also allows free access to all international television channels. Access to information has been greatly enhanced through widespread and unhindered Internet outlets.

- With the conviction that free flow of information is vital for any functioning democracy, the Right to Information Act has been enacted in the country and a full-fledged Information Commission remains currently in operation.

- Bangladesh has established itself as a democratic and pluralistic polity through its deep commitment to good governance, democracy, rule of law, and promotion and protection of all human rights and fundamental freedoms for all citizens, with particular attention to women, children, minorities, disabled and other vulnerable sections of the population.

- Bangladesh has adopted appropriate legislative and institutional measures to promote the rights of women and children. The focus is on the protection of women and girls, in particular, from all forms of violence, abuse and discrimination. Bangladesh has a separate ministry devoted to the welfare of women and children. Stringent laws have been enacted to protect women and children, particularly girls, from being trafficked and abused. Stringent laws have been put in place to address violence against women.

- Gender mainstreaming is a major policy thrust in Bangladesh. Affirmative actions are taken to mainstream women in national development efforts through introducing gender sensitive budget, arranging literacy programmes, increasing representation in the workforce, ensuring economic emancipation and enhancing political representation. Some special provisions, including social safety net programmes, have been adopted for the economically disadvantaged groups, including women. A monthly allowance system for widowed, deserted and destitute women has been introduced. Distressed and ultra-poor women have been receiving food assistance and skills development training for income-generating activities. The forward-looking National Women Development Policy 2011 aims at addressing poverty reduction, with specific focus on women's empowerment and financial capacity-building. Bangladesh has also made significant strides in increasing women's participation in public life. Women are increasingly assuming leadership roles at the national level, in local government bodies and in the corporate sector.

- Bangladesh is one of the early signatories to the United Nations Convention on the Rights of the Child. The National Child Act, 2013, stipulates provisions that are in keeping with the Convention, including on the issue of the minimum age of a child. The National Children's Council is the highest policy-level body to monitor enforcement of child-related laws and rights. Due attention is being given to the issue of further strengthening and reforming the juvenile justice system.

- Bangladesh is the twentieth country to ratify the United Nations Convention on the Rights of Persons with Disabilities and the optional protocol thereto. The National Monitoring Committee, under the aegis of the Ministry of Social Welfare, is responsible for ensuring compliance with the Convention. There is an autonomous national body to provide services, including financial assistance, to persons with disabilities.

- Bangladesh has made significant progress towards economic emancipation of the people in terms of sustainable economic growth, increase of per capita income, better food security, enhanced disaster management capability and high achievements in social sectors, particularly in education and health sectors. Home-grown concepts have been critical enabling factors for these achievements. A vibrant civil society, including a large number of non-governmental organizations (NGOs), continues to work in close partnership with the Government in bringing about the desired changes at the community level.

- Bangladesh is often cited for its best practices for social protection programmes. A wide range of safety nets have been put in place to address multi-dimensional challenges faced by the poor and the vulnerable. Some of

the flagship social protection programmes include direct cash transfer, food for work, free school feeding, old-age allowance and micro-financing support.

- Bangladesh encourages the contribution of civil society and NGOs in national socioeconomic development and in the promotion and protection of human rights. Government-NGO partnership is one of the hallmarks of Bangladesh's development scene. The NGO activities range from health care to non-formal education, women's empowerment and micro-credit programmes. NGOs and community-based organizations contribute significantly to the protection of civil and political rights, too. The number of registered NGOs in Bangladesh exceeds 14,000.

- Bangladesh believes that access to education is an essential step in the direction of enjoyment of human rights. The Government has, therefore, undertaken education for all, particularly girls' education, as a priority. The National Education Policy 2010 is a ground-breaking document that aims at promoting quality, transformative education for developing truly global citizens for a knowledge-based society. Education for girls up to twelfth grade is free in Bangladesh.

- Bangladesh continues to adhere to its commitment to the United Nations Convention against Corruption and work towards curbing corruption in all spheres of society. The Anti-Corruption Commission now enjoys full financial autonomy and functions as an independent, self-governed and neutral entity.

- Bangladesh has established the independent National Human Rights Commission in line with the Paris Principles. The Commission is invested with power to independently receive and investigate allegations of human rights violations from any individual or group. It also monitors the overall human rights situation in the country and makes appropriate recommendations.

- Bangladesh believes that terrorism adversely affects human rights. In line with its robust counter-terrorism credential, Bangladesh has ratified all 13 United Nations Conventions on terrorism. It is also a party to the South Asian Association of Regional Cooperation Regional Convention on Suppression of Terrorism.

Contribution at the global level

5. Bangladesh plays a constructive role in the international arena to promote and protect human rights through dialogue, understanding and cooperation. It strives to build consensus on important issues in different international forums, including at the United Nations. Some of its major undertakings at the international level are as follows:

- Bangladesh is a State party to almost all major international human rights instruments, including the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the Convention on the Rights of the Child and the two optional protocols thereto; the Convention on the Elimination of All Forms of Discrimination Against Women and the optional protocol thereto; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention for the Suppression of the Trafficking in Persons and of the Exploitation of the Prostitution of Others; the Convention against Torture and

other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of Persons with Disabilities; and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

- Bangladesh has always maintained sound working relations with the Office of the United Nations High Commissioner on Human Rights, the treaty bodies, the special procedures and other human rights mechanisms.
- With firm conviction that the Human Rights Council and its mechanisms can contribute to the promotion and protection of human rights worldwide, Bangladesh participates actively in its work. It is cooperating with other United Nations Member States, civil society representatives and special procedures in order to make the Human Rights Council an effective, efficient and credible human rights body. In recent years, it has invited several special rapporteurs demonstrating its willingness to cooperate with the United Nations human rights machinery.
- Bangladesh has cooperated with the human rights treaty bodies, and made good use of their recommendations in improving human rights situation in the country. Bangladesh has taken initiatives to further improve its record of treaty body reporting, and also to contribute to the work of the treaty bodies by nominating independent experts for election.
- Bangladesh has been advocating dialogue as the most effective means to promote religious harmony, tolerance, respect and solidarity among different faiths and cultures.
- Bangladesh is a lead contributor of troops for United Nations peacekeeping operations. Its soldiers are working in difficult circumstances in many post-conflict situations to protect the lives and human rights of civilians, particularly women and children.
- Bangladesh attaches very high importance to the universal periodic review mechanism. The mechanism has created a desired environment of openness and a platform for constructive dialogue. Bangladesh has been actively participating and cooperating with this mechanism. During its second cycle review, held in April 2013, Bangladesh had accepted almost all recommendations. Appropriate actions have already been initiated to implement these recommendations at the national level.

Voluntary pledges

6. Bangladesh makes the following pledges.

7. At the domestic level, Bangladesh will:

- Intensify its efforts, while framing its national policies and strategies, to uphold the fundamental principles enshrined in the Constitution, the Universal Declaration of Human Rights and international and regional human rights instruments to which it is a party
- Consider acceding to the remaining international and regional human rights instruments, including on the basis of consensus forged through national consultation processes, as appropriate

- Strengthen its efforts to meet its obligations under the treaty bodies relating to the international instruments to which it is a party
- Continue to enact national legislations to implement international human rights instruments to which it is a party
- Continue to cooperate and engage with the Special Procedures and mechanisms of the Human Rights Council, with a view to further improve its human rights situations and continue extending invitations to Special Rapporteurs on a regular basis
- Continue to engage in the universal periodic review mechanism to undergo the review under terms, conditions and modalities developed by the Council, and take appropriate measures at the national level to implement the universal periodic review recommendations, as accepted, involving all concerned stakeholders
- Work towards further strengthening and consolidating the legal and regulatory regime and institutional structures that promote good governance, democracy, human rights and the rule of law
- Continue to preserve the independence of the judiciary and freedom of the press
- Sustain the trend of further strengthening and empowering the statutory and watchdog bodies such as the National Human Rights Commission, the National Election Commission, the Anti-Corruption Commission, the Public Service Commission and the Information Commission
- Ensure effective parliamentary oversight, including through the parliamentary standing committees, and enhance the transparency and accountability of public accounts
- Continue to provide capacity-building and training programmes in the field of human rights to law enforcement officials, judges, public prosecutors, lawyers, journalists, civil servants, parliamentarians and the media
- Continue its developmental agenda for its people, with particular attention to empowerment of women, children, persons with disabilities and other vulnerable sections of the population, including through the continued application and innovation of home-grown concepts
- Work for the implementation of the Beijing Declaration and Platform of Action, the Copenhagen Declaration on Social Development and Plan of Action, and the outcomes of other major United Nations international conferences and their follow-up meetings
- Continue to promote and protect the rights of the religious and ethnic minorities and work towards maintaining the traditional communal harmony by upholding the secular, pluralist and inclusive values of the State and the society in general
- Continue to strengthen efforts to promote and protect the rights of workers and progressively realize decent work conditions across all sectors of the economy
- Further integrate poverty alleviation into its national policies and strengthen its efforts to ensure the provision of basic needs of its people, including food,

clothing, shelter, education, primary health care and access to water and sanitation, as means to effectively enjoy all human rights

- Promote the constructive role of civil society and print, electronic and social media in the promotion of human rights at all levels.

8. At the international levels, the Government of Bangladesh will:

- Continue to extend its fullest support to the Human Rights Council in its work for the promotion and protection of all human rights and fundamental freedoms without distinction of any kind and in a fair and equal manner
- Strengthen its constructive engagement and cooperation with other members of the Human Rights Council to make it an efficient and effective body
- Engage constructively with all parties, on the basis of dialogue and cooperation, to resolve challenges to the full realization of all human rights and to prevent human rights violations throughout the world
- Act as bridge builder among different groups and constituencies within the Human Rights Council in order to arrive at unbiased, objective and mutually acceptable decisions and understanding to promote and protect human rights throughout the world
- Continue to support the work of the Office of the United Nations High Commissioner for Human Rights in fulfilling its mandate
- Continue to support the United Nations agencies, programmes and funds that can facilitate the promotion of human rights such as the United Nations Children's Fund, the United Nations Entity for Gender Equality and the Empowerment of Women, the World Health Organization, the International Labour Organization and the United Nations Population Fund
- Promote realization of the right to development, as an inalienable right for all peoples and individuals, and support the ongoing efforts to further develop the concept and its operationalization, based on practical applications
- Continue to work for the full realization of human rights and fundamental freedoms for all, emphasizing, the promotion of democracy, rule of law and good governance at all levels
- Continue to pursue the issue of human rights and climate change at national and international levels in order to further enhance the interface between the human rights and climate change communities
- Continue to promote and advocate for the rights and well-being of migrant workers across the entire migration cycle.

9. As a State party to all core international human rights instruments and one of the active players in the formulation of the international human rights agenda, Bangladesh presents its candidature for the membership of the Human Rights Council for the term 2015-2017.

United Nations A/69/394–S/2014/684

General Assembly
Security Council

Distr.: General
22 September 2014
English
Original: Arabic

General Assembly
Sixty-ninth session
Agenda item 64 (a)
Promotion and protection of the rights of children: promotion and protection of the rights of children

Security Council
Sixty-ninth year

Identical letters dated 18 September 2014 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the Secretary-General and the President of the Security Council

On instructions from my Government, I wish to convey to you the position of the Government of the Syrian Arab Republic regarding the heinous crime that was committed against Syrian children in the countryside of Idlib governorate:

On Tuesday, 16 September 2014, Syria was the victim of a crime, indeed, a humanitarian catastrophe. This catastrophe came about through the connivance of fictitious health institutions affiliated with armed terrorist groups and the Turkish Government, and resulted in the death of 15 innocent Syrian children. They died after they were given expired, contaminated and poisoned measles vaccine that was obtained from unknown sources. The incidents occurred in Ma'arrat Nu'man in the countryside of Idlib governorate, which is located in the northern part of the Syrian Arab Republic. In addition, dozens of innocent children suffered from asphyxiation as a result of this crime against humanity.

Over the past three years, the Government of the Syrian Arab Republic, in cooperation with the World Health Organization, the United Nations Children's Fund (UNICEF) and national non-governmental organizations, has carried out scores of vaccination campaigns throughout Syria in response to numerous epidemics and against several lethal diseases, such as polio, typhoid and others. Ministry of Health staff demonstrated their dedication by conducting a national vaccination campaign against polio, which is widespread in those areas where foreign terrorists are present, and they succeeded in stopping this epidemic. Many members of these national medical teams were treacherously shot dead by terrorists as they carried out their honourable national duty.

These vaccination campaigns were completely successful owing to the dedication of the Government of the Syrian Arab Republic, acting through the Ministry of Health, and thanks to the commitment of health and education workers,

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good execution, love of country and the Government's assiduity in shouldering its responsibilities, including its responsibility to provide sound health care to Syria's children. Anthony Lake, the Executive Director of UNICEF, and other United Nations officials have commended these campaigns in many of their statements.

The Syrian Arab Republic condemns this heinous crime that was committed against innocent Syrian children and reiterates that it is fulfilling the pledges it had repeatedly made through official channels and in international forums, including its pledge to protect and foster the rights of the child. It also reaffirms that it will spare no effort to meet the medical needs of the residents of those parts of Syria that are near the Turkish border and have been devastated by the terrorists and their proxies. This includes ensuring that national vaccination campaigns reach those areas, in cooperation with the Syrian Arab Red Crescent and the relevant international organizations that are operating in Syrian territory. It should be borne in mind that vaccines must be administered to children in accordance with strict technical standards and conditions, and that the administering medical teams must possess the required skill and experience. In Syria, only the Ministry of Health of the Syrian Arab Republic has staff with such skill and experience.

The Government of the Syrian Arab Republic calls on the United Nations and its agencies to comply with their commitments, particularly under Security Council resolution 2165 (2014), commitments that require them and their implementing partners to inform the Government of the Syrian Arab Republic of their plans and activities before using roads that cross conflict lines or the international border crossings of Bab al-Salam, Bab al-Hawa, Ya'rubiyah and Ramtha, in order to ensure that humanitarian aid, particularly medical and surgical supplies, reaches the civilians across Syria who need it. The monitoring mechanism must observe the loading of all relief convoys deployed by United Nations humanitarian agencies or their implementing partners at all relevant United Nations facilities. It must also observe any inspection of convoys by customs or medical authorities in the concerned neighbouring States before their entry into Syrian territory. In accordance with the 2014 humanitarian response plan, United Nations partner agencies must systematically monitor the humanitarian response and ensure compliance with international and Syrian humanitarian and medical standards. They must publicize their findings in order to guarantee that the outcomes and commitments set forth in the plan are realized in an accountable manner. Vaccinations are one of the priorities of the plan.

The leaders of the armed terrorist groups and the Turkish authorities that backed them all bear responsibility for this disaster, as does everyone who aided or facilitated the process. The international community must clearly and explicitly condemn this despicable act. The armed gangs have plainly violated international law and human rights conventions, particularly those regarding the rights of the child. The perpetrators have proved disgracefully ignorant of the principles and conventions underlying humanitarian work and the practice of medicine.

The drugs and vaccines in question may not be used anywhere in the world without prescription or specialist supervision; yet they were handed over to simpletons who lack the most basic knowledge of medicine or nursing. The unsafe use of such substances represents an ongoing danger to our people in the affected areas and a clear threat to public health.

The international community must condemn the unethical and inhumane stance of one of the representatives of the armed terrorist groups in the Turkish city of Gaziantep. The individual concerned has taken a plainly immoral approach to this harrowing tragedy by promising material and moral compensation to the families of the child victims, in a pathetic attempt to cover up the groups' responsibility for their crimes against our proud Syrian Arab people. He forgets, however, that the wounds of a grieving mother cannot be assuaged by pitiful material compensation, and that no price can be set on human life.

The Syrian Arab Republic calls on the United Nations to open an immediate investigation in order to identify the responsible party or parties, including the Turkish officials who facilitated this monstrous crime, which amounts to a crime against humanity. The Syrian Arab Republic is prepared to cooperate with all United Nations agencies with a view to conducting the investigation, bringing the perpetrators to justice, upholding the right of children to proper health care and preventing the terrorists of the twenty-first century from committing such crimes again. The Government calls on international organizations to endorse the national vaccination campaigns and regular targeted visits organized by the Ministry of Health of the Syrian Arab Republic, and to support the Government's efforts to send trained vaccination teams to all affected areas, so that they can protect the children in accordance with stringent medical standards by administering the vaccines approved by the Ministry of Health.

I should be grateful if you would have the present letter circulated as a document of the sixty-ninth session of the General Assembly, under agenda item 64 (a), and of the Security Council.

(*Signed*) Bashar **Ja'afari**
Permanent Representative
of the Syrian Arab Republic to the United Nations

United Nations A/69/395

General Assembly

Distr.: General
22 September 2014

Original: English

Sixty-ninth session
Agenda items 19 (a) and (i)

Sustainable development: implementation of Agenda 21, the Programme for the Further Implementation of Agenda 21 and the outcomes of the World Summit on Sustainable Development and of the United Nations Conference on Sustainable Development

Promotion of new and renewable sources of energy

United Nations Decade of Sustainable Energy for All

Report of the Secretary-General*

Summary

The United Nations Decade of Sustainable Energy for All (2014-2024) offers a unique opportunity for all stakeholders to come together around a common platform to act to make sustainable energy for all a reality and, through this, help to eradicate poverty and lead to sustainable development and global prosperity. On the basis of input from Member States and other relevant stakeholders, the present report lays out some broad pillars as a global plan of action for the Decade. The report also suggests how the full spectrum of activities can be brought together to ensure long-term predictability and synergies towards the implementation and realization of sustainable energy for all within the context of the post-2015 development agenda.

* The present report was submitted late owing to the inclusion of recent political and technical developments.

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I. Introduction

1. Recognizing that access to modern affordable energy services in developing countries is essential for sustainable development, the General Assembly, in its resolution 65/151, decided to declare 2012 the International Year of Sustainable Energy for All. During that year, many initiatives were undertaken by Member States and international organizations, including the Secretary-General's Sustainable Energy for All initiative, to create, in response to the resolution, an enabling environment for the promotion of access to energy and energy services and the use of new and renewable energy technologies at all levels.

2. Stressing the need for a coherent, integrated approach to energy issues and the promotion of synergies across the global energy agenda for sustainable development, the General Assembly, in its resolution 67/215, decided to declare 2014-2024 the United Nations Decade of Sustainable Energy for All, to be promoted through all sources of energy, mindful of the provisions of the annex to Economic and Social Council resolution 1980/67.

II. Background

A. Energy and sustainable development

3. Energy is inextricably linked to most global challenges. Access to energy sources has been a major driver of development in industrialized countries and emerging economies. Energy helps to eradicate poverty, increase food production, provide clean water, improve public health, enhance education, address climate change, create economic opportunity and empower young people and women. Although there was no specific Millennium Development Goal relating to energy, it is widely recognized as a prerequisite to the achievement of the Goals and sustainable development, as emphasized by numerous international debates, including the World Summit on Sustainable Development, the High-level Plenary Meeting of the General Assembly on the Millennium Development Goals, the United Nations Conference on Sustainable Development, and the thematic debate of the General Assembly on "Water, Sanitation and Sustainable Energy in the Post-2015 Development Agenda".

4. Nevertheless, 1.3 billion people, or nearly one in five globally, continue to lack electricity. Twice as many still rely on wood, charcoal, animal or crop waste or other solid fuels to cook their food and heat their homes. The "energy-poor" suffer the health consequences of inefficient combustion of solid fuels in inadequately ventilated buildings, which kills around four million people a year, most of them women and children,[1] as well as the economic consequences of insufficient power for productive income-generating activities and for other basic services, such as health and education. In particular, women and girls in the developing world are disproportionately affected in that regard.

[1] Stephen S. Lim et al., "A comparative risk assessment of burden of disease and injury attributable to 67 risk factors and risk factor clusters in 21 regions, 1990-2010: a systematic analysis for the Global Burden of Disease Study 2010", *The Lancet*, vol. 380, issue 9859 (15 December 2012).

5. Where modern energy services are plentiful, there are different challenges. Emissions of carbon dioxide and other greenhouse gases from fossil fuels are contributing to changes in the Earth's climate, to the detriment of those who depend on the planet's natural systems for survival. Climate change threatens food and water security for hundreds of millions of people, undermining the most essential foundations of local, national and global stability. Competition for scarce resources is increasing, exacerbating old conflicts and creating new ones. As lands degrade, forests are felled and sea levels rise, the movement of people who have been driven from their homes by environmental change may reshape the human geography of the planet.

6. The transition to sustainable energy systems provides perhaps one of the largest global economic opportunities of the twenty-first century, which is particularly important at a time when countries are looking to improve economic performance and create sustainable jobs and employment opportunities. Despite tremendous progress, barriers still exist to promoting sustainable energy solutions, especially given the need for a dramatic change in the pace and scale of how this issue is addressed on the ground. Action is needed in areas such as finance, technology development, policy and regulatory innovation and improved business models and governance structures.

7. A global transformation of the way energy is produced and consumed is needed in order to provide sustainable energy for all, satisfy rapid growth in energy demand, particularly in many developing countries and emerging economies, and diminish the negative impacts of climate change. Modern energy services stand at the centre of global efforts to induce a paradigm shift towards green economies, poverty eradication and, ultimately, sustainable development.

8. The goals that need to be achieved to promote human well-being depend on progress in the global transformation of energy systems. Societies all over the world will not be able to advance their sustainable development goals unless extraordinary changes are implemented in the way energy is produced and used, and measures implemented to secure access to affordable, sustainable modern and clean energy systems.

9. Record investment is needed to propel innovation, development and the commercialization of environmentally sound technologies. Cooperation and actions are needed to substantially increase the contribution of those technologies to the world's energy systems and to guarantee modern energy services to everyone.

B. Inducing change

10. The global conversation about energy and sustainable development is already fully under way. In many discussions, including in the General Assembly, the United Nations Conference on Sustainable Development and the new annual Sustainable Energy for All Forum, the past several years have seen an increasing recognition and reaffirmation that energy is central to virtually everything we do.

11. Momentum is growing. In many countries and regions, including the States members of the European Union, small island developing States, States members of the Asian and Pacific Energy Forum, and the least developed countries, sustainable energy for all has been endorsed as a political priority through explicit declarations

and commitments to action. Government commitment is increasingly being backed by leaders from all sectors of society, including business entities, civil society and international organizations.

12. Representatives of Member States interested in energy have formed the Group of Friends of Sustainable Energy for All, an informal and cross-regional group of approximately 30 Permanent Representatives to the United Nations in New York, to promote effective dialogue on energy issues.

13. Responding to the heightened call for action with regard to energy, the Secretary-General has taken a number of steps, most notably by establishing the Sustainable Energy for All initiative in 2011. The Secretary-General also convened the High-level Panel on the Post-2015 Development Agenda, which recognized the importance of energy in the post-2015 development agenda.

14. The United Nations system also took the lead in organizing multi-stakeholder thematic consultations globally in support of the discussions on the post-2015 development agenda. The consultation on energy called for sustainable energy for all as a global goal, and for a global network on sustainable energy for all to help continue dialogue with an array of stakeholders on energy issues.

C. Sustainable energy for all actions and activities leading up to the Decade

1. International Year of Sustainable Energy for All

15. In 2010, the General Assembly, recognizing the importance of access to modern affordable energy services in developing countries for the achievement of the internationally agreed development goals, including the Millennium Development Goals, declared 2012 the International Year of Sustainable Energy for All. In its resolution 65/151, the Assembly, inter alia, requested the Secretary-General, in consultation with relevant agencies within the United Nations system and UN-Energy, to organize and coordinate activities to be undertaken during the Year, and encouraged all Member States, the United Nations system and all other actors to take advantage of the Year to increase awareness of the importance of addressing energy issues, including modern energy services for all, access to affordable energy, energy efficiency and the sustainability of energy sources and use, and to promote action at the local, national, regional and international levels.

16. Consequently, a number of global and regional events and initiatives were launched in order to spread information about those issues.[2] The observance of the Year was very successful in the sense that it created global awareness of the importance of energy for sustainable development and has brought the issue to the top of the agenda of decision makers at the national and international levels. Furthermore, it has sparked unprecedented commitments for action that promise to advance long-term solutions to critical problems relating to energy. The Year also served as a platform for building partnerships among Governments, organizations of the United Nations system, the private sector, civil society and other actors. It has provided an effective forum for the sharing of experiences and good practices to

[2] For additional information on activities undertaken during the Year, see A/67/314.

build more inclusive national energy sectors that will improve access to sustainable energy.

2. Sustainable Energy for All initiative of the Secretary-General

17. In response to the 2010 declaration by the General Assembly of 2012 as the International Year of Sustainable Energy for All, the Secretary-General launched the Sustainable Energy for All initiative in 2011. The initiative seeks to support the objective of sustainable energy for all by identifying and mobilizing action by all stakeholders in support of a major global transformation of energy systems. The initiative seeks to ensure sustainable energy for all by 2030 through the achievement of three major objectives: (a) ensuring universal access to modern energy services; (b) doubling the rate of improvement in energy efficiency; and (c) doubling the share of renewable energy in the global energy mix.[3]

18. To guide the work of the Sustainable Energy for All initiative, the Secretary-General appointed a high-level group of distinguished leaders from around the world. The High-level Group on Sustainable Energy for All produced a Global Action Agenda (see A/67/175) during 2012, which provides a concrete strategy for engagement by all actors across different sectors of society. It also aims to help countries and stakeholders create their own pathways towards sustainable energy for all, on the basis of technology choices that are appropriate to their unique national and local circumstances.

19. In September 2012, the Group published a report summarizing its work (see A/67/551) and the Secretary-General appointed a Special Representative for Sustainable Energy for All and Chief Executive of the Sustainable Energy for All initiative. Furthermore, an Advisory Board for the initiative was formed and is being co-chaired by the Secretary-General and the President of the World Bank. A three-tiered structure is now guiding, overseeing and supporting the implementation of the initiative. It includes the Advisory Board, an Executive Committee and a Global Facilitation Team. Regional and thematic hubs are also being created to further support the necessary work. In addition, a Global Tracking Framework,[4] a joint product of the World Bank, the International Energy Agency and more than 15 other international organizations, was launched to establish baseline energy data to ensure accountability and transparency.

20. The initiative is succeeding in catalysing significant commitments to sustainable energy by Governments, the United Nations system, multilateral development banks, the private sector and civil society. More than 80 developing States have partnered with the initiative, while developed countries, civil society and businesses are continuing to pledge contributions in the tens of billions of dollars. In close collaboration with many partners from all sectors of society, as well as established thematic and regional hubs, concrete actions are already carried out in many countries. Many of the actions and collaborations are structured around high impact opportunities, country action plans and investment prospectuses.

21. Many countries and regions have also endorsed sustainable energy for all and the initiative as a political priority, through explicit declarations and commitments

[3] United Nations, *Sustainable Energy for All: A Vision Statement by Ban Ki-moon, Secretary-General of the United Nations* (New York, November 2011).

[4] Available from www.se4all.org/tracking-progress.

to action. Some examples include the Oslo Energy for All Conference on financing access for the poor (2011); the Conference of Energy Ministers of Africa (2012); the European Union Sustainable Energy for All Summit (2012); the Ministerial Conference on Achieving Sustainable Energy for All in Small Island Developing States (2012); the Third Clean Energy Ministerial Conference (2012); the High-level Meeting on Sustainable Energy for the Least Developed Countries (2013); the Elysée Summit for Peace and Security in Africa (2013); the Pacific Energy and Transport Ministers Meeting (2014); and the Ministerial Conference on New Partnerships for Productive Capacity-Building in the Least Developed Countries (2014).

3. United Nations Conference on Sustainable Development

22. In the outcome document of the United Nations Conference on Sustainable Development, entitled "The future we want", endorsed by the General Assembly in its resolution 66/288, Heads of State and Government and high-level representatives stated that "we are all determined to act to make sustainable energy for all a reality and, through this, help to eradicate poverty and lead to sustainable development and global prosperity". They went on to recognize "the critical role that energy plays in the development process, as access to sustainable modern energy services contributes to poverty eradication, saves lives, improves health and helps provide for basic human needs".

23. The Heads of State and Government and high-level representatives also emphasized the need to address the challenge of access to sustainable modern energy services for all, in particular for the poor, who are unable to afford such services even when they are available. They emphasized the need to take further action to improve that situation, including by mobilizing adequate financial resources, so as to provide those services in developing countries in a reliable, affordable, economically viable and socially and environmentally acceptable manner.

24. They further recognized that improving energy efficiency, increasing the share of renewable energy and cleaner and energy-efficient technologies were important for sustainable development, including in addressing climate change. Commitments announced at the Conference (see A/67/551) included the following:

(a) More than 70 developing countries opted to work with the initiative, with many more following;

(b) More than $50 billion was pledged in support of the objectives of the initiative from the private sector and investors;

(c) Tens of billions of dollars were committed by multilateral development banks in Asia, Europe and Latin America;

(d) Hundreds of actions were catalysed and commitments made in support of the three core objectives;

(e) Commitments to support energy access will provide more than 1 billion people with access to modern energy during the lifespan of the initiative;

(f) New public-private partnerships are being formed with regard to transport, energy efficiency, solar cooking, finance and energy access for the poor.

4. Energy and the post-2015 development agenda

25. The High-level Panel on the Post-2015 Development Agenda convened by the Secretary-General strongly recommended the integration of energy in the post-2015 development agenda. The final report from the Panel included an illustrative, dedicated, global sustainable development goal relating to energy.

26. The Open Working Group on Sustainable Development Goals of the General Assembly included in its report a proposal of a goal on ensuring access to affordable, reliable, sustainable and modern energy for all, accompanied by targets on energy access, renewable energy and energy efficiency, as well as two targets on related means of implementation. The proposed goals will undergo consideration by the General Assembly as part of deliberation on the overall post-2015 development agenda.

27. The World Bank has estimated that to achieve the three targets of sustainable energy for all (and the proposed sustainable development goal on energy), total global investments required will be about $600 billion to $800 billion per year, which includes $50 billion per year for energy access alone, and the rest for energy efficiency and renewable energy targets. To meet this challenge, the Secretary-General and the President of the World Bank Group have set up a finance committee of multilateral development banks, private commercial banks and institutional investors to consider innovative ways of mobilizing resources to support country-level actions .The three work streams on which the committee is working are: identification of business opportunities by countries/regions and their absorptive capacity; sources of capital, requirements for de-risking and market transformation and new innovations to leverage multilateral development banks capital; and project development capacity, funding and institutional arrangements. For new financing structures, the Committee is evaluating four thematic areas within which several variants of financing structures are being discussed: (a) scaling up green bonds; (b) direct foreign investment and private-sector risk-sharing structures; (c) enabling new solutions with insurance; and (d) aggregation themes to attract additional funding into small-scale energy access, renewables and energy efficiency investments. A draft report was presented at the first Sustainable Energy for All Forum in June 2014, and further consultations are taking place with select financing institutions, banks and investors. A report on how to mobilize the first $120 billion will be ready by the end of the year.

28. It is worth reporting that, according to the Renewable Energy Policy Network for the 21st Century report of June 2014, 140 countries have already set voluntary targets for renewable energy in their energy mix. The challenge is to how to support capacity-building in these countries for energy sector reforms and technology transfer to help them achieve their renewable energy targets. Furthermore, the European Union has pledged, under Sustainable Energy for All, to support the provision of modern energy services to 500 million poor people by 2030, with initial funding of €3 billion to leverage €13 billion over the next six years. This is complemented by the announcement in August 2014 by the Government of the United States of America under the Power Africa initiative to connect 300 million people in Africa to electricity in five years, with public-private financing of $20 billion; a memorandum of understanding will be signed with Sustainable Energy for All later in the year. In addition, in 2014, the new Government of India announced its commitment to achieve universal access to energy for the poor within

five years. With this measure alone, it is conceivable that energy poverty could be reduced by over 50 per cent by 2030. Therefore, it is strongly recommended that Sustainable Energy for All should be the initiative through which to track and monitor whether such commitments are achieved within the post-2015 development agenda, and to determine which are the best practices learned in the process and what further partnerships can be established to accelerate the pace for ensuring that the proposed sustainable development goal on energy is fully achieved within the next two decades.

D. Mandates of the Decade

29. In its resolution 67/215, the General Assembly decided to declare 2014-2024 the United Nations Decade of Sustainable Energy for All. Building on this, the Assembly, through its resolution 68/210, requested the Secretary-General, in consultation with Member States, to lead the coordination of the activities of the Decade on behalf of the United Nations system, from extrabudgetary resources. It also invited Member States and others in a position to do so to contribute, on a voluntary basis, to the funding of the activities of the Decade. This was affirmed in resolution 68/224, in which the Assembly stressed that the least developed countries should receive a special focus throughout the Decade.

30. In response to the invitation by the General Assembly in its resolution 67/215, the Secretary-General submitted a report on the United Nations Decade of Sustainable Energy for All (A/68/309) to the Assembly at its sixty-eighth session. The report included a comprehensive summary of many of the very encouraging contributions of Member States and other stakeholders to the achievement of sustainable energy for all, as well as Member States' input on their priorities and suggestions for the Decade.

E. Overview of actions and activities so far in support of the Decade

1. Appointment of a Special Representative for Sustainable Energy for All

31. In 2013, following the declaration by the General Assembly of the United Nations Decade of Sustainable Energy for All, the Secretary-General appointed his Special Representative for Sustainable Energy for All. The Special Representative, who is also the Chair of UN-Energy and Chief Executive Officer for the Sustainable Energy for All initiative, essentially serves as the focal point in the United Nations system on issues related to energy.

32. In his above-mentioned report, the Secretary-General requested his Special Representative for Sustainable Energy for All to lead the overall coordination of the activities for the Decade, in consultation with Member States. That coordination will be supported by the United Nations system through UN-Energy, as well as the Sustainable Energy for All initiative, its Global Facilitation Team, partners and other relevant stakeholders.

33. To undertake these responsibilities, an Office of the Special Representative of the Secretary-General for Sustainable Energy for All was established in Vienna, with a liaison office in New York. Staff salaries, other operating costs for the Office, meetings of the Advisory Board and various events have been supported through

voluntary contributions from Austria, Denmark, Germany, Iceland, Norway, Sweden, the United Kingdom of Great Britain and Northern Ireland and the European Commission.

2. Global Decade launch and first annual Sustainable Energy for All Forum

34. The United Nations Decade of Sustainable Energy for All was formally launched by the President of the General Assembly on 5 June 2014, as part of the first annual Sustainable Energy for All Forum. The Forum and Decade launch also included the launch of an initial two-year special focus on energy for women, children and health. In launching the Decade, the President noted that the Assembly was acutely aware of the role that sustainable energy can and must play in our future planning.

35. The annual Sustainable Energy for All Forum will include related cross-regional activities leading up to and feeding into it. For the first Forum, held from 4 to 6 June 2014, more than 1,000 leaders from Governments, the private sector, civil society and international organizations gathered at United Nations Headquarters in New York. The three days and nearly 60 sessions featured more than 300 speakers from all regions and sectors of society, including more than 20 participants at the ministerial level or above.

36. The key objectives of the first annual Sustainable Energy for All Forum were: (a) to launch the United Nations Decade of Sustainable Energy for All; (b) to nurture the broader movement of civil society organizations and stakeholders as part of the Decade; (c) to assess the progress made on the issue of Sustainable Energy for All two years after the United Nations Conference on Sustainable Development; (d) to inspire and mobilize further action, partnerships and commitments by showcasing success stories, innovation and best practices; and (e) to shape and set the direction for the global policy discourse on energy for the crucial next decades to come.

37. The first annual Sustainable Energy for All Forum incorporated the third meeting of the Sustainable Energy for All initiative's Advisory Board. During the Forum, the four Advisory Board committees, on energy access, renewable energy, energy efficiency and finance, reported on their preliminary results. The Forum also included sessions entitled "Growing the movement", "Catalysing investment through innovative business models", "Sharing knowledge and experiences, developing capacity"; "Accelerating country action"; "Ten years to transform the world's energy"; "Global leadership dialogue"; and "The human face of sustainable energy for all".

38. On the last day of the Forum, more than 60 delegates, including 20 at the ministerial level or above, participated in a high-level dialogue on energy in the post-2015 development agenda. The debate showed strong support for including energy as part of the new development framework, including in its sustainable development goals. As expressed during statements,[5] participants welcomed the Decade and saw the new Sustainable Energy for All Forum as a useful meeting place and building block that should continue to contribute to sustainable development through poverty eradication and the curbing of climate change.

[5] Available from www.se4all.org/se4all-forum/statements.

3. Other activities in support of the Decade

39. A range of activities as part of the Decade have already been held by different stakeholder communities and in different regions around the world, including in New Delhi (Delhi Sustainable Development Summit); Nadi, Fiji (Pacific Energy and Transport Ministers Meeting), New York (Bloomberg Future of Energy Summit); Kigali, Rwanda (Annual Meeting of the African Development Bank), Manila (Asia Clean Energy Forum); Glasgow, United Kingdom (20th Commonwealth Games); and Cotonou, Benin (Ministerial Conference on New Partnerships for Productive Capacity-Building in the Least Developed Countries), as well as cross-regional student launches (Regional Student Energy Summits). Further events are planned to be held in Apia (Third International Conference on Small Island Developing States), Santiago (launch of the Decade in the Americas) and Stockholm (World Water Week).

40. Many United Nations agencies, funds and programmes that are members of UN-Energy are also already involved in efforts that support the Decade,[6] including the United Nations Development Programme; the World Health Organization; the United Nations Environment Programme; the Food and Agriculture Organization of the United Nations; the United Nations Educational, Scientific and Cultural Organization; the United Nations Human Settlements Programme; the World Meteorological Organization; the United Nations Capital Development Fund; the International Fund for Agricultural Development; the regional economic commissions, including the Economic Commission for Europe, the Economic Commission for Latin America and the Caribbean, the Economic Commission For Africa and the Economic Commission for Asia and the Pacific; the United Nations Conference on Trade and Development; the Department of Economic and Social Affairs; the United Nations Foundation; the Renewable Energy Policy Network for the 21st Century; the International Renewable Energy Agency; the United Nations Children's Fund; and the United Nations Industrial Development Organization.

41. Such efforts so far include:

- The development of technical advice to develop specific sustainable energy solutions, in particular ones relate to bottom-up/decentralized energy options, ensuring that the Decade's activities are linked to the national development priorities of developing countries, future sustainable development goals, follow-up actions of the United Nations Conference on Sustainable Development and the ongoing climate change discussions under the United Nations Framework Convention on Climate Change
- The strengthening of energy efficiency
- The development of solutions to the enormous disease and death burden associated with the lack of access to clean, modern energy solutions and inefficient energy use
- Continuing work on energy-smart food solutions

[6] See www.un-energy.org for more information, including the recent report entitled "Activities of the member organizations and partners of UN-Energy in support of the 2014-2024 United Nations Decade of Sustainable Energy for All".

- The implementation of land-, marine- and space-based observing programmes that will provide information to decision makers on energy potential at various sites
- Support for low-income and/or rural households and micro-entrepreneurs to gain access to modern energy through microfinance
- Energy commodity development and greening international trade
- The promotion of regional cooperation to enhance energy security and the sustainable use of energy in various regions
- The development of delivery systems for technical assistance, capacity-building and policy advice in support of access by developing countries to clean and efficient energy for productive use

III. Global plan of action for the Decade

A. Establishing strategic objectives

42. In their inputs to the previous report of the Secretary-General on the United Nations Decade of Sustainable Energy for All (A/68/309), Member States offered guidance as to the direction of the Decade. Among the opinions expressed was support for a strong implementation programme during the Decade. Member States also expressed that the Global Action Agenda could serve as a useful framework for the activities of the Decade. Originally established in response to and in support of the International Year of Sustainable Energy for All, the Sustainable Energy for All initiative will also support the United Nations Decade of Sustainable Energy for All, with the strategic objectives of the Global Action Agenda. With its concrete objectives, comprehensive toolbox of resources and thousands of implementing partners from all regions and sectors of societies, the initiative could contribute substantially to the implementation of the Decade. That implementation program should, inter alia:

(a) Catalyse actions at all levels to transform the world's energy systems towards an equitable and sustainable future: all stakeholders should lead the way by example, by setting their own goals and targets on energy and the nexus with other development factors; establishing proactive policies, regulatory frameworks and incentives to spur innovation and investment; facilitating the building of market structures to deliver sustainable energy solutions and services over time; dramatically increasing bottom-up solutions; expanding capacity-building; promoting partnerships; enhancing research and development; and disseminating information on experiences and lessons learned;

(b) Create an enabling environment for a significant increase in investment in the world's energy systems: the International Energy Agency estimates that nearly $1 trillion in cumulative investment is needed to achieve universal energy access by 2030.[7] In addition, massive investments in renewable energy and energy efficiency are necessary in order to reach the global energy goals of the Sustainable Energy for All initiative;

[7] International Energy Agency, *World Energy Outlook 2012: Executive Summary* (Paris, 2012).

(c) Catalyse overall investment in the world's energy systems: public-private partnerships will be essential to mobilizing the massive investment needed for the global transformation of energy systems. It will be essential to use public investment in order to leverage the private investment that is required to achieve this transformation;

(d) Increase support for research and development: Governments and the private sector will need to support such efforts to drive technological innovation and reduce the cost of clean energy technologies, to make them increasingly attractive economically all over the world;

(e) Continue to expand global consultations with all stakeholders both in developing and developed countries: civil society, businesses, young people and Governments should continue a dialogue in order to ensure that the perspectives of all stakeholders are appropriately captured and fed into the Decade programme, the post-2015 development agenda and other relevant processes;

(f) Create more incentives for a change in behaviour to manage and allocate resources in a more sustainable manner: activities relating to the Decade should promote sustainable energy production and consumption so that energy resources are used in a more equitable manner;

(g) Expand data and statistical programmes in developing countries: more work is needed on energy-integrated targets, indicators and definitions and on identifying data needs to capture the many dimensions and interlinkages and to ensure national relevance and measurability. The Sustainable Energy for All Global Tracking Framework can provide support in that respect;

(h) Expand and increase partnerships and commitments: actions and programmes relating to the Decade should seek to expand current partnerships and coalitions and secure new partnerships and commitments for interim goals by 2024 and beyond;

(i) Enhance dissemination of knowledge, commitments and solutions: the Decade should provide a platform for Governments and non-governmental actors to disseminate knowledge and showcase and announce contributions and solutions that accelerate the ultimate goal of sustainable energy for all.

B. Suggested broad outline of activities and focus areas

43. In their input, Member States considered the Decade as a major platform that will help to accelerate the necessary transformation of global energy systems. As such, the Decade will continue to build on the already existing momentum. Stakeholders from the private and financial sectors, civil society and international organizations are already rallying behind the determination of Governments to act to make sustainable energy for all a reality and, through this, help to eradicate poverty and lead to sustainable development and global prosperity. In an attempt to engage potential partners even further, the United Nations Decade of Sustainable Energy will continue to be promoted at different important events, conferences and arenas around the world.

44. Member States expressed that they should use the Decade as a platform to highlight and disseminate success stories, lessons learned, best practices and

solutions. In inspiring and pushing efforts towards the achievement of the current Millennium Development Goals, as well as their successors, the coordination of the activities of the Decade will ensure that such opportunities will be provided. Initially, these activities will mainly take the form of continued launches of the Decade for different regions and communities. The outreach will seek to create awareness around the importance of sustainable energy for all, including the role of sustainable energy as an enabler for other sustainable development gains.

45. At the outset of the Decade, Member States have also suggested setting specific thematic focuses for parts of the Decade, in order to ensure attention around critical issue areas. Following concrete proposals for such a thematic focus, the global launch of the Decade already saw the launch of a two-year initial campaign on issues relating to energy, women, children and health. Every year, around 4 million people, mainly women and children, die prematurely from illnesses attributable to the household air pollution from cooking with solid fuels. More than 50 per cent of premature deaths among children under the age of 5 are due to pneumonia caused by particulate matter (soot) inhaled from household air pollution.

C. Milestones and tracking of progress

46. An important contribution to the Decade and the post-2015 development agenda is the Sustainable Energy for All Global Tracking Framework, which is provided under the leadership of the World Bank and the International Energy Agency, in collaboration with more than 15 other organizations. It is a comprehensive mechanism to track progress in the area of sustainable energy for all, as measured by progress within the three streams of energy access, energy efficiency and renewable energy. The original 2013 version will be updated in early 2015, and new updates will continue to be made available on a regular basis throughout the Decade and beyond. The Global Tracking Framework will be used to measure progress during the Decade.

47. In their inputs, Member States expressed that the Decade should support the post-2015 development agenda and, in particular, any sustainable development goals and targets. The Decade was seen as an opportunity to set up a number of interim goals and milestones to be reached by 2024, in support of the final goals of the Sustainable Energy for All initiative by 2030. As soon as the post-2015 development agenda is adopted, this will form the new global development paradigm, which is also expected to stretch throughout and beyond the duration of the Decade. The Decade will contribute to building momentum around any agreed and relevant sustainable development goal under the post-2015 development agenda. The establishment of informal interim milestones could also be considered among coalitions of partners.

IV. Organizational arrangements

48. The Special Representative of the Secretary-General on Sustainable Energy for All, in leading the coordination of activities under the Decade on behalf of the Secretary-General, will also draw on its roles as Chair of UN-Energy and Chief Executive Officer of the Sustainable Energy for All initiative. The Chair of UN-Energy stays in regular and close touch with relevant parts of the United

Nations system. The Chief Executive Officer of the Sustainable Energy for All initiative has at its disposal a Global Facilitation Team, which facilitates contact with thousands as partners of the initiative from all regions and sectors of society. The initiative is guided by a multi-stakeholder Advisory Board, co-chaired by the Secretary-General and the President of the World Bank, as well as an Executive Committee.

49. The Special Representative will work towards putting in place long-term institutional structures for the Sustainable Energy for All initiative, including the establishment of an international not-for-profit organization, in the course of 2015. Appropriate arrangements will also be made to ensure continued support within the United Nations to issues related to sustainable energy.

50. In leading the coordination of the activities of the Decade on behalf of the Secretary-General, the Special Representative has been requested to facilitate the reporting on the activities of the Decade, as well as related activities. Member States are encouraged to provide input to the coordination of the activities of the Decade on an ongoing basis.

V. Conclusions and recommendations

51. The people who lack energy access are mainly the same people who lack access to clean water and sanitation, experience high food insecurity and would experience the worst impacts of climate change.

52. Sustainable Energy for All has proven to be an effective framework for building consensus around a sustainable development goal on energy and accompanying targets and for establishing public-private partnerships.

53. To achieve Sustainable Energy for All and sustainable development goal targets will require scaled-up actions through well-structured public-private partnerships to mobilize finance and incentivize technology deployment.

54. Considering the scale of investments required and the complexity of energy sector reforms, significant capacity-building support for developing countries, especially the least developed countries and small island developing States, will be required.

55. The Sustainable Energy for All Global Tracking Framework, supported by UN-Energy and more than 20 agencies, could serve as a basis for developing a robust tracking, monitoring and reporting system on the implementation of a sustainable development goal on energy in the post-2015 development agenda.

56. As noted in paragraph 49 above, long-term institutional structures for the Sustainable Energy for All initiative, involving the establishment of an international not-for-profit organization, will be put in place during 2015. Going forward, appropriate arrangements would also need to be made to ensure continued support within the United Nations to issues related to sustainable energy, including possible mechanisms for tracking and reporting on the proposed sustainable development goal on energy.

United Nations A/69/396

General Assembly

Distr.: General
30 September 2014

Original: English

Sixty-ninth session
Agenda item 27 (a)
Advancement of women

Letter dated 29 September 2014 from the Permanent Representative of Japan to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith a summary of the World Assembly for Women, held from 12 to 14 September 2014 and chaired by the Minister for Foreign Affairs of Japan, Fumio Kishida (see annex).

The event was jointly hosted by the Government of Japan, the Japan Business Federation (KEIDANREN), Nikkei, Inc., and the Japan Institute of International Affairs and was supported by the Japan Center for Economic Research. Participants in the World Assembly for Women stressed the importance of promoting women's active role in the economy and discussed global issues and women's initiatives. Among the participants were three senior officials of the United Nations: the Administrator of the United Nations Development Programme, Helen Clark, the Executive Director of the United Nations Entity for Gender Equality and the Empowerment of Women, Phumzile Mlambo-Ngcuka, and the Special Representative of the Secretary-General on Sexual Violence in Conflict, Zainab Hawa Bangura.

I should be grateful if you would have the present letter and its annex circulated as a document of the sixty-ninth session of the General Assembly.

(*Signed*) Motohide **Yoshikawa**
Ambassador Extraordinary and Plenipotentiary
Permanent Representative of Japan to the United Nations

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Annex to the letter dated 29 September 2014 from the Permanent Representative of Japan to the United Nations addressed to the Secretary-General

Summary by the Chair based on the proposals of the participants of the World Assembly for Women, Tokyo 2014

Promoting women's active role in the economy

1. *Obtain the commitment of top management.* Clarify targets, implement action plans and increase accountability. Endorse Japan's new legislation that supports women's empowerment in the workplace. Promote change in the mindset of middle management. Train and support women and produce female role models.

2. *Implement unprecedented, drastic reform in work style.* Abandon systems of long working hours and realize more highly productive and flexible work styles. Shift from "work-life balance" to "work-life management", in which one can decide how to blend work and life on the basis of one's own will.

3. *Support and encourage women's entrepreneurship.* Lower hurdles to obtaining financing, such as loans without a personal guarantee. Throughout their education, young people should be made aware that they can choose to become entrepreneurs, so that the mindset of people can be changed earlier in their development.

4. *Support women's business activities.* Actively advance public procurement by female-led corporations. Introduce social structures that make better use of senior professionals.

5. *Enhance the expansion of measures to make work and life compatible.* Promote the utilization of home caregivers in order to provide more options to families raising children or caring for the elderly so that women can work. In this regard, cooperate with local governments to establish national standards for home caregivers and create markets. Moreover, increase the supply of foreign caregivers, for example by relaxing relevant policies and measures that will attract foreign caregivers.

6. *Realize a gender-neutral social system.* Review the tax and social security systems and realize a gender-neutral social system. Introduce such measures as income tax deductions in order to support child rearing. Moreover, introduce tax incentives for companies that encourage men to take parental leave.

Global issues and women's initiatives

1. *Address the immediate needs of women and children.* Ensure that comprehensive and effective policies and mechanisms are in place in the event of a natural disaster and other crises which may threaten human security.

2. *Invest strategically in women's empowerment.* All stakeholders, including Governments, businesses and civil society should make strategic investments in the areas of education, medicine, the economy and food in order to enhance the resilience of societies.

3. *Ensure the political leadership and participation of women.* To ensure the implementation of Security Council resolution 1325 (2000) and related resolutions,

high-level political leadership and commitment, consultation by the international community with women in civil society and the inclusion of the perspectives and participation of women in all stages of peacebuilding and all governmental decision-making are essential. We suggest bringing key high-level leaders together to strategize for concrete results.

4. *Strengthen the role of women in peace and security.* Document and make accessible the role that women play in peace and security and ensure that resources are available to support such efforts. End the culture of impunity for sexual violence, provide survivor-centred support in peacebuilding and create mechanisms to ensure empowerment of and support for women.

5. *Reveal and correct biases against women in existing laws, institutions and national policies.* Monitor implementation. The rational analysis, including statistical analysis, of structural impediments to gender equality will allow us to keep a spotlight on women's challenges.

6. *Empower women.* Technology is critical to the empowerment of women. Technology brings access to education, technical support for small and medium-sized businesses and offers a means for women across the globe to share best practices. To build women's confidence, we need demonstrable leadership from women, not only to provide role models, but to encourage and ensure gender equality.

United Nations A/69/397

General Assembly

Distr.: General
23 September 2014

Original: English

Sixty-ninth session
Agenda item 68 (a)
Promotion and protection of human rights: implementation of human right instruments

Promotion and protection of human rights and fundamental freedoms while countering terrorism*

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Emmerson, submitted in accordance with General Assembly resolution 68/178 and Human Rights Council resolution 15/15.

* Late submission.

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Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

Summary

The present report is the fourth annual report submitted to the General Assembly by the current Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Emmerson.

The key activities undertaken by the Special Rapporteur between 17 December 2013 and 31 July 2014 are listed in section II of the report. In section III, the Special Rapporteur examines the use of mass digital surveillance for counter-terrorism purposes, and considers the implications of bulk access technology for the right to privacy under article 17 of the International Covenant on Civil and Political Rights.

I. Introduction

1. The present report is submitted to the General Assembly by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Emmerson, pursuant to General Assembly resolution 68/178 and Human Rights Council resolutions 15/15, 19/19, 22/8 and 25/7. It sets out the activities of the Special Rapporteur carried out between 17 December 2013 and 31 July 2014. It then examines the use of mass digital surveillance for counter-terrorism purposes, and considers the implications of bulk access technology for the right to privacy under article 17 of the International Covenant on Civil and Political Rights.

II. Activities related to the mandate

2. On 13 February 2014, the Special Rapporteur participated as a speaker in a panel discussion entitled "Debating *Kadi II*: United Nations Ombudsperson v. judicial review in Security Council sanctions decision-making", at the London School of Economics, in London.

3. From 23 to 25 February 2014, the Special Rapporteur participated in an expert seminar on the theme "The right to privacy in the digital age", hosted by the Permanent Missions of Austria, Brazil, Germany, Liechtenstein, Mexico, Norway and Switzerland in Geneva, and facilitated by the Geneva Academy of International Humanitarian Law and Human Rights, in Geneva.

4. On 11 March 2014, the Special Rapporteur presented his report on the use of remotely piloted aircraft, or drones, in extraterritorial lethal counter-terrorism operations, including in the context of asymmetrical armed conflict, and its civilian impact (A/HRC/25/59) to the Human Rights Council at its twenty-fifth session. He also held an interactive dialogue with the Council on his reports on his country visits to Burkina Faso (A/HRC/25/59/Add.1) and Chile (A/HCR/25/59/Add.2).

5. On 12 March 2014, Special Rapporteur participated as a panellist in a side event on the topic "Human rights and drones" and held a press conference at the twenty-fifth session of the Human Rights Council.

III. Counter-terrorism and mass digital surveillance

A. Introduction and overview

6. The exponential growth in States' technological capabilities over the past decade has improved the capacity of intelligence and law enforcement agencies to carry out targeted surveillance of suspected individuals and organizations. The interception of communications provides a valuable source of information by which States can investigate, forestall and prosecute acts of terrorism and other serious crime. Most States now have the capacity to intercept and monitor calls made on a landline or mobile telephone, enabling an individual's location to be determined, his or her movements to be tracked through cell site analysis and his or her text messages to be read and recorded. Targeted surveillance also enables intelligence and law enforcement agencies to monitor the online activity of particular

individuals, to penetrate databases and cloud facilities, and to capture the information stored on them. An increasing number of States are making use of malware systems that can be used to infiltrate an individual's computer or smartphone, to override its settings and to monitor its activity. Taken together, these forms of surveillance provide a mosaic of data from multiple sources that can generate valuable intelligence about particular individuals or organizations.

7. The common feature of these surveillance techniques is that they depend upon the existence of prior suspicion of the targeted individual or organization. In such cases, it is the almost invariable practice of States to require some form of prior authorization (whether judicial or executive), and in some States there is an additional tier of ex post facto independent review. In most States, therefore, there is at least one opportunity (and sometimes more than one) for scrutiny of the information alleged to give rise to the suspicion, and for an assessment of the legality and proportionality of surveillance measures by reference to the facts of a particular case. With targeted surveillance, it is possible to make an objective assessment of the necessity and proportionality of the contemplated surveillance, weighing the degree of the proposed intrusion against its anticipated value to a particular investigation.

8. The dynamic pace of technological change has, however, enabled some States to secure bulk access to communications and content data without prior suspicion. Relevant authorities in these States are now able to apply automated "data mining" algorithms to dragnet a potentially limitless universe of communications traffic. By placing taps on fibre-optic cables through which the majority of digital communications travel, relevant States have thus been able to conduct mass surveillance of communications content and metadata, providing intelligence and law enforcement agencies with the opportunity to monitor and record not only their own citizens' communications, but also the communications of individuals located in other States. This capacity is typically reinforced by mandatory data retention laws that require telecommunications and Internet service providers to preserve communications data for inspection and analysis. The use of scanning software, profiling criteria and specified search terms enables the relevant authorities then to filter vast quantities of stored information in order to identify patterns of communication between individuals and organizations. Automated data mining algorithms link common identifying names, locations, numbers and Internet protocol addresses and look for correlations, geographical intersections of location data and patterns in online social and other relationships.[1]

9. States with high levels of Internet penetration can thus gain access to the telephone and e-mail content of an effectively unlimited number of users and maintain an overview of Internet activity associated with particular websites. All of this is possible without any prior suspicion related to a specific individual or organization. The communications of literally every Internet user are potentially open for inspection by intelligence and law enforcement agencies in the States concerned. This amounts to a systematic interference with the right to respect for the privacy of communications, and requires a correspondingly compelling justification.

10. From a law enforcement perspective, the added value of mass surveillance technology derives from the very fact that it permits the surveillance of the

[1] http://blog.privacystrategy.eu/public/published/Submission_ISC_7.2.2014_-_Caspar_Bowden.pdf.

communications of individuals and organizations that have not previously come to the attention of the authorities. The public interest benefit in bulk access technology is said to derive precisely from the fact that it does not require prior suspicion. The circularity of this reasoning can be squared only by subjecting the practice of States in this sphere to the analysis mandated by article 17 of the International Covenant on Civil and Political Rights.

11. Article 17 of the Covenant provides that any interference with private communications must be prescribed by law, and must be a necessary and proportionate means of achieving a legitimate public policy objective (see paras. 28-31 below). The prevention of terrorism is plainly a legitimate aim for this purpose (see paras. 33 and 34 below), but the activities of intelligence and law enforcement agencies in this field must still comply with international human rights law.[2] Merely to assert — without particularization — that mass surveillance technology can contribute to the suppression and prosecution of acts of terrorism does not provide an adequate human rights law justification for its use. The fact that something is technically feasible, and that it may sometimes yield useful intelligence, does not by itself mean that it is either reasonable or lawful (in terms of international or domestic law) (see A/HRC/27/37, para. 24).

12. International human rights law requires States to provide an articulable and evidence-based justification for any interference with the right to privacy, whether on an individual or mass scale. It is a central axiom of proportionality that the greater the interference with protected human rights, the more compelling the justification must be if it is to meet the requirements of the Covenant. The hard truth is that the use of mass surveillance technology effectively does away with the right to privacy of communications on the Internet altogether. By permitting bulk access to all digital communications traffic, this technology eradicates the possibility of any individualized proportionality analysis. It permits intrusion on private communications without independent (or any) prior authorization based on suspicion directed at a particular individual or organization. Ex ante scrutiny is therefore possible only at the highest level of generality.

13. Since there is no target-specific justification for measures of mass surveillance, it is incumbent upon relevant States to justify the general practice of seeking bulk access to digital communications. The proportionality analysis thus shifts from the micro level (assessing the justification for invading a particular individual's or organization's privacy) to the macro level (assessing the justification for adopting a system that involves wholesale interference with the individual and collective privacy rights of all Internet users). The sheer scale of the interference with privacy rights calls for a competing public policy justification of analogical magnitude.

14. As an absolute minimum, article 17 requires States using mass surveillance technology to give a meaningful public account of the tangible benefits that accrue from its use. Without such a justification, there is simply no means to measure the compatibility of this emerging State practice with the requirements of the Covenant. An assessment of proportionality in this context involves striking a balance between the societal interest in the protection of online privacy, on the one hand, and the undoubted imperatives of effective counter-terrorism and law enforcement, on the

[2] See the compilation of good practices on legal and institutional frameworks for intelligence services and their oversight, promulgated by the former Special Rapporteur (A/HRC/14/46, paras. 9-50).

other. Determining where that balance is to be struck requires an informed public debate to take place within and between States. The international community needs to squarely confront this revolution in our collective understanding of the relationship between the individual and the State.[3] It is a prerequisite for any assessment of the lawfulness of these measures that the States using the technology be transparent about their methodology and its justification.[4] Otherwise, there is a risk that systematic interference with the security of digital communications will continue to proliferate without any serious consideration being given to the implications of the wholesale abandonment of the right to online privacy. If States deploying this technology retain a monopoly of information about its impact, a form of conceptual censorship will prevail that precludes informed debate.

15. Some argue that users of the Internet have no reasonable expectation of privacy in the first place, and must assume that their communications are available to be monitored by corporate and State entities alike. The classic analogy drawn by those who support this view is between sending an unencrypted email and sending a postcard. Whatever the merits of this comparison, it does not answer the key questions of legality, necessity and proportionality. The very purpose of the Covenant's requirement for explicit and publicly accessible legislation governing State interference with communications is to enable individuals to know the extent of the privacy rights they actually enjoy and to foresee the circumstances in which their communications may be subjected to surveillance (see paras. 35-39 below). Yet the value of this technology as a counter-terrorism and law enforcement tool rests in the fact that users of the Internet assume their communications to be confidential (otherwise there would be no purpose in intruding upon them). This is reflected in the assertions made by members of the intelligence communities of the United States of America and the United Kingdom of Great Britain and Northern Ireland following the disclosure of mass surveillance programmes operated by these two States, in which the disclosures were said to have damaged national security by alerting potential terrorists to the fact that their communications were under surveillance.[5]

16. Any assessment of proportionality must also take full account of the fact that the Internet now represents the ubiquitous means of communication for many millions of people around the world. The revolution in digital technology has brought about a quantum shift in the way we communicate with one another. Digital communications technologies that use the Internet (including handheld devices and smartphones) have become part of everyday life (see A/HRC/27/37, para. 1). Anyone who wishes to participate in the exchange of information and ideas in the modern world of global communications is nowadays obliged to use transnational

[3] As the United States Privacy and Civil Liberties Oversight Board has observed: "[P]ermitting the government to routinely collect the calling records of the entire nation fundamentally shifts the balance of power between the state and its citizens": "Report on the Telephone Records Program Conducted under Section 215 of the USA PATRIOT Act and on the Operations of the Foreign Intelligence Surveillance Court".

[4] In her report on the right to privacy in the digital age (A/HRC/27/37, para. 48), the High Commissioner for Human Rights noted "the disturbing lack of governmental transparency associated with surveillance policies, laws and practices, which hinders any effort to assess their coherence with international human rights law and to ensure accountability".

[5] See http://abcnews.go.com/Blotter/intel-heads-edward-snowden-profound-damage-us-security/story?id=22285388 and www.itv.com/news/2013-10-09/the-damage-of-edward-snowdens-revelations/.

digital communication technology. Internet traffic is frequently routed through servers located in foreign jurisdictions. The suggestion that users have voluntarily forfeited their right to privacy is plainly unwarranted (ibid., para. 18). It is a general principle of international human rights law that individuals can be regarded as having given up a protected human right only through an express and unequivocal waiver, voluntarily given on an informed basis. In the modern digital world, merely using the Internet as a means of private communication cannot conceivably constitute an informed waiver of the right to privacy under article 17 of the Covenant.

17. The Internet is not a purely public space. It is composed of many layers of private as well as social and public realms.[1] Those making informed use of social media platforms in which messages are posted in full public view obviously have no reasonable expectation of privacy. The postcard analogy is entirely apposite for the dissemination of information through the public dimensions of Twitter and Facebook, for example, or postings on public websites. But reading a postcard is not an apposite analogy for intercepting private messages sent by e-mail, whether they are encrypted or unencrypted.

18. Assuming therefore that there remains a legal right to respect for the privacy of digital communications (and this cannot be disputed (see General Assembly resolution 68/167)), the adoption of mass surveillance technology undoubtedly impinges on the very essence of that right (see paras. 51 and 52 below). It is potentially inconsistent with the core principle that States should adopt the least intrusive means available when entrenching on protected human rights (see para. 51 below); it excludes any individualized proportionality assessment (see para. 52 below); and it is hedged around by secrecy claims that make any other form of proportionality analysis extremely difficult (see paras. 51 and 52 below). The States engaging in mass surveillance have so far failed to provide a detailed and evidence-based public justification for its necessity, and almost no States have enacted explicit domestic legislation to authorize its use (see para. 37 below). Viewed from the perspective of article 17 of the Covenant, this comes close to derogating from the right to privacy altogether in relation to digital communications. For all these reasons, mass surveillance of digital content and communications data presents a serious challenge to an established norm of international law. In the view of the Special Rapporteur, the very existence of mass surveillance programmes constitutes a potentially disproportionate interference with the right to privacy.[6] Shortly put, it is incompatible with existing concepts of privacy for States to collect all communications or metadata all the time indiscriminately. The very essence of the right to the privacy of communication is that infringements must be exceptional, and justified on a case-by-case basis (see para. 51 below).

19. There may be a compelling counter-terrorism justification for the radical re-evaluation of Internet privacy rights that these practices necessitate. However, the arguments in favour of a complete abrogation of the right to privacy on the Internet have not been made publicly by the States concerned or subjected to informed scrutiny and debate. The threat of terrorism can provide a justification for mass surveillance only if the States using the technology can demonstrate with particularity the tangible counter-terrorism advantages shown to have accrued from its use. Moreover, measures justified by reference to States' duties to protect against

[6] See also the view of the High Commissioner for Human Rights, A/HRC/27/37, paras. 20 and 25.

the threat of terrorism should never be used as a Trojan horse to usher in wider powers of surveillance for unrelated governmental functions. There is an ever present danger of "purpose creep", by which measures justified on counter-terrorism grounds are made available for use by public authorities for much less weighty public interest purposes (see para. 55 below). In the present report, the Special Rapporteur builds upon the work of his predecessor (A/HRC/13/37) and the former Special Rapporteur on the promotion and protection of the right to freedom of expression and opinion (A/HRC/23/40). He argues that there is now an onus on States deploying bulk access surveillance technology to explain promptly, precisely and publicly why this wholesale intrusion into collective privacy is justified for the prevention of terrorism or other serious crime.

B. Recent disclosures concerning the nature and extent of States' digital surveillance capabilities

20. On 5 June 2013, a national newspaper in the United Kingdom published the content of a classified court order authorized by the United States Foreign Intelligence Surveillance Court under section 215 of the Patriot Act. The order reportedly required one of the largest telecommunications providers in the United States to hand over to the National Security Agency all "telephony metadata" on a daily basis for a three-month period and prohibited the company from disclosing the existence of the request or the order itself. On 6 June 2013, a United States newspaper published a separate story disclosing the existence of a covert National Security Agency digital programme called PRISM. The programme, reportedly authorized pursuant to section 702 of the United States Foreign Intelligence Surveillance Act, was said to involve the collection of content data from the central servers of nine leading United States technology companies.

21. According to reports in both newspapers, the material retrieved through PRISM was made available to other intelligence agencies, including the Government Communications Headquarters of the United Kingdom. Subsequent disclosures reported the existence of a separate data collection programme called Upstream, which is said to involve the capture of both telephone and Internet communications passing through fibre-optic cables and infrastructure owned by United States service providers. Much of the world's Internet traffic is routed through servers physically located in the United States.

22. The media have subsequently reported that the National Security Agency's Systems Intelligence Directorate includes an applications vulnerabilities branch that collects data from communications systems around the world. The Agency is said to operate an Internet exploitation mechanism called Quantum, which enables it to compromise third-party computers. The methodology reportedly involves taking secret control (or "ownership") over servers in key locations on the "backbone" of the Internet. By impersonating chosen websites (including such common sites as the Google search page), Quantum is able to inject unauthorized remote control software into the computers and Wi-Fi-enabled devices of those who visit the clone site (who will, of course, have no reason to doubt the clone site's authenticity). Technology experts assess that this methodology can permanently compromise the user's computer, ensuring that it continues to provide intelligence to the National Security Agency in the United States indefinitely.

23. The United States Executive and Legislative branches have subsequently taken a number of steps in response to these disclosures. One issue to have emerged from this process is the difference in treatment between United States citizens and non-citizens (even those located within the territorial jurisdiction of the United States). The key developments may be summarized as follows:

(a) On 9 August 2013, President Barack Obama announced that he had requested the Privacy and Civil Liberties Oversight Board[7] to undertake a review of existing counter-terrorism efforts.[8] In late August 2013, the Board called upon the Director of National Intelligence and the Attorney-General to update the intelligence community's procedures on collecting, retaining and disseminating information relating to United States citizens;[9]

(b) On 12 December 2013, the President's Review Group released its report entitled "Liberty and security in a changing world", in which the Group made a number of significant recommendations for reform. In response to that report, on 17 January 2014 President Obama announced a series of proposed legislative and administrative changes.[10] The Administration concurrently released a new Presidential Policy Directive, "PPD-28", to strengthen the oversight of the signals intelligence activities of the intelligence community, both within and outside the United States;[11]

(c) On 23 January 2014, the Privacy and Civil Liberties Oversight Board released the first of two reports in which the majority concluded that the telephone metadata programme was inconsistent with domestic law because section 215 of the Patriot Act did not provide an adequate basis to support it.[12] On 27 March, President Obama announced a set of new proposals to end the existing programme.[13] On 22 May 2014, the House of Representatives adopted the United States Freedom Act, incorporating some of the President's proposals;

(d) On 2 July 2014, the Privacy and Civil Liberties Oversight Board released a second report setting out in detail how surveillance operations under section 702 of the Foreign Intelligence Surveillance Act work in practice.[14] While the report's chief concern was the compatibility of these programmes with United States statutory and constitutional requirements, the Board recognized that they also raised "important but difficult legal and policy questions" concerning the treatment of non-United States persons.[15] The Board took the view that the application of the

[7] The Board is an independent agency within the executive branch with authority to review and analyse counter-terrorism operations and to ensure that they are balanced with the need to protect privacy and civil liberties; see www.pclob.gov/.

[8] See www.whitehouse.gov/the-press-office/2013/08/09/remarks-president-press-conference.

[9] See www.pclob.gov/newsroom.

[10] See www.washingtonpost.com/politics/full-text-of-president-obamas-jan-17-speech-on-nsa-reforms/2014/01/17/fa33590a-7f8c-11e3-9556-4a4bf7bcbd84_story.html.

[11] See www.whitehouse.gov/the-press-office/2014/01/17/remarks-president-review-signals-intelligence.

[12] "Report on the Telephone Records Program Conducted under Section 215 of the USA PATRIOT Act and on the Operations of the Foreign Intelligence Surveillance Court".

[13] See www.whitehouse.gov/the-press-office/2014/03/27/fact-sheet-administration-s-proposal-ending-section-215-bulk-telephony-m.

[14] "Report on the Surveillance Program Operated Pursuant to Section 702 of the FISA", see www.pclob.gov/meetings-and-events/2014meetingsevents/02-july-2014-public-meeting.

[15] Ibid., p. 98.

right to privacy to national security surveillance conducted in one country that might affect residents of another country is not "settled" among States parties to the International Covenant on Civil and Political Rights, a proposition that was said to be evidenced by the "ongoing spirited debate".[16]

24. A parallel process of review has taken place within the United Kingdom. On 10 June 2013, in response to allegations that Government Communications Headquarters had circumvented United Kingdom law by using the National Security Agency's PRISM programme to access the content of communications that could not be accessed under domestic law, the Foreign Secretary made a statement in Parliament indicating that any data obtained from the United States involving United Kingdom nationals is "subject to proper United Kingdom statutory controls and safeguards", including the relevant provisions of the Intelligence Services Act of 1994, the Human Rights Act of 1998 and the Regulation of Investigatory Powers Act of 2000.[17]

25. On 21 June 2013, the media reported on the existence of a separate programme operated by Government Communications Headquarters ("Tempora"), under which data interceptors were reportedly placed on fibre-optic cables running between the United Kingdom and the United States to facilitate the interception of both metadata and content information. Whether existing legislation provides Government Communications Headquarters with the lawful authority to conduct such operations, and whether they conform to the right to privacy as guaranteed under article 8 of the European Convention on Human Rights, has been questioned within and outside the United Kingdom Parliament.[18] Subsequent disclosures have focused on the role of the Joint Threat Intelligence Group in Government Communications Headquarters. This agency is reported to have deployed a computer virus called Ambassador's Reception for the purposes of online covert action. This virus is said to be able to encrypt itself and act as a "chameleon" imitating communications by other Internet users.

26. Following a preliminary investigation into Government Communications Headquarters' access to communications and content data, the Intelligence and Security Committee (a Parliamentary committee with responsibility for the oversight of the intelligence community)[19] issued a statement on 17 July 2013. Having taken account of the legal framework governing information-sharing arrangements between Government Communications Headquarters and its overseas counterparts, the Committee concluded that no United Kingdom law had been violated and that Government Communications Headquarters had conformed to its statutory duties under the Intelligence Services Act of 1994. The Committee nevertheless concluded that further investigations were merited to consider whether the existing statutory framework governing access to private communications was adequate given the "complex interaction" among the Intelligence Services Act of 1994, the Human Rights Act of 1998 and the Regulation of Investigatory Powers Act of 2000. On 17 October 2013, the Intelligence and Security Committee

[16] Ibid., p. 100.

[17] See www.gov.uk/government/speeches/foreign-secretary-statement-to-the-house-of-commons-gchq.

[18] See www.theguardian.com/uk-news/2013/oct/14/conservative-peer-spying-gchq-surveillance; and www.publications.parliament.uk/pa/cm201314/cmhansrd/cm131031/halltext/131031h0001.htm.

[19] See http://isc.independent.gov.uk/.

announced that it would broaden the scope of its inquiry following concerns about the extent of intelligence service capabilities and the impact of their operations on the right to privacy.[20]

27. On 8 April 2014, the Court of Justice of the European Union released its judgement in the case of *Digital Rights Ireland*, in which it declared the European Union Data Retention Directive to be incompatible with the right to respect for private life and the right to the protection of personal data, both of which are guaranteed under the Charter of Fundamental Rights of the European Union.[21] The Directive required communication service providers to retain traffic data so as to permit access by the competent national authorities for the purpose of preventing, investigating, detecting and prosecuting serious crime, including terrorism. In holding that the retention of, and access to, traffic data constituted a "particularly serious interference" with both rights, the Court of Justice of the European Union found that the Directive failed to satisfy the principle of proportionality. On 10 July 2014, the United Kingdom Government introduced the Data Retention and Investigatory Powers Bill in response to the ruling. The Government characterized the Bill (now an Act) as a measure to "clarify" the nature and extent of obligations that can be imposed on telecommunications and Internet service providers based in the United Kingdom.[22]

C. Mass surveillance, counter-terrorism and the right to privacy

1. The right to privacy under article 17 of the International Covenant on Civil and Political Rights

28. Privacy can be defined as the presumption that individuals should have an area of personal autonomous development, interaction and liberty free from State intervention and excessive unsolicited intrusion by other uninvited individuals (see A/HRC/23/40, para. 22; and A/HRC/13/37, para. 11). The duty to respect the privacy and security of communications implies that individuals have the right to share information and ideas with one another without interference by the State (or a private actor), secure in the knowledge that their communications will reach and be read by the intended recipients alone.[23] The right to privacy also encompasses the right of individuals to know who holds information about them and how that information is used.[24]

29. Article 17 of the International Covenant on Civil and Political Rights is the most important legally binding treaty provision guaranteeing the right to privacy at the universal level. It provides that "no one shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home and correspondence, nor to unlawful attacks on his or her honour and reputation". It further provides that "everyone has the right to the protection of the law against such interference or attacks". Other international human rights instruments contain similar provisions;

[20] See http://isc.independent.gov.uk/news-archive/17october2013.

[21] Court of Justice of the European Union, Judgment in Joined Cases C-293/12 and C-594/12, *Digital Rights Ireland and Seitlinger and Others*, Judgment of 8 April 2014.

[22] See www.gov.uk/government/speeches/communications-data-and-interception.

[23] Human Rights Committee general comment No. 16, para. 8.

[24] Ibid., para. 10; see A/HRC/23/40, para. 22.

and laws at the regional and national levels also reflect the right of all people to respect for their private and family life, home and correspondence.

30. The right to privacy is not, however, an absolute right. Once an individual is under suspicion and subject to formal investigation by intelligence or law enforcement agencies, that individual may be subjected to surveillance for entirely legitimate counter-terrorism and law enforcement purposes (see A/HRC/13/37, para. 13). Although article 17 of the Covenant does not contain a specific limitation clause outlining the circumstances in which interference with the right to privacy may be compatible with the Covenant, it is universally understood as permitting such measures providing that (a) they are authorized by domestic law that is accessible and precise and that conforms to the requirements of the Covenant,[25] (b) they pursue a legitimate aim and (c) they meet the tests of necessity and proportionality.[26]

31. The realization that a large part of the world's Internet traffic is at some point routed through the United States prompted a number of States to express concerns as to whether the right to privacy of their citizens had been violated by the PRISM programme. In December 2013, the General Assembly adopted resolution 68/167, on the right to privacy in the digital age, which was co-sponsored by 57 Member States and adopted without a vote. In that resolution, the Assembly affirmed that the right to privacy must be protected online, and called upon all States to review their procedures, practices and legislation related to communications surveillance, interception and collection of personal data, emphasizing the need for States to ensure the full and effective implementation of their obligations under international human rights law.

32. In the same resolution, the General Assembly also mandated the Office of the United Nations High Commissioner for Human Rights to report to the Human Rights Council and the General Assembly on the protection and promotion of the right to privacy in the context of domestic and extraterritorial surveillance, and/or the interception of digital communications and the collection of personal data, including on a mass scale. In paragraph 47 of her report published on 30 June 2014 (A/HRC/27/37), the High Commissioner concluded that international human rights law provided a clear and universal framework for the promotion and protection of the right to privacy, including in the context of domestic and extraterritorial surveillance, the interception of digital communications and the collection of personal data. She noted, however, that the practice of many States revealed a lack of adequate national legislation and/or enforcement, weak procedural safeguards and ineffective oversight, all of which had contributed to a lack of accountability for arbitrary or unlawful interference with the right to privacy. The High Commissioner emphasized that information was still emerging on the nature and extent of digital surveillance operations but expressed her concern at the "disturbing lack of governmental transparency associated with surveillance policies, laws and practices,

[25] Human Rights Committee general comment No. 16, para. 3.

[26] See A/HRC/27/37, paras. 22-25, and the sources there cited; A/HRC/23/40, paras. 28 and 29; A/HRC/13/37, paras. 13-17; Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights, E/CN.4/1985/4, annex; Human Rights Committee general comments Nos. 16, 27, 29, 34 and 31; Human Rights Committee, *Van Hulst v. Netherlands*, Communication No. 903/2999, 2004; *Madafferi v. Australia*, Communication No. 1011/2001, 2004; *Toonen v. Australia*, Communication No. 488/1992, para. 8.3; *MG v. Germany*, Communication No. 1482/2006, 2008; and CCPR/C/USA/CO/4.

which hinders any effort to assess their coherence with international human rights law and to ensure accountability" (ibid., para. 48). She called upon States to review their national law and practice for conformity with international human rights norms, and to make amendments, where necessary. She also called upon the international community to carry out further in-depth study into the issues (ibid., paras. 49 and 51).

2. Counter-terrorism as a legitimate aim

33. Unlike a number of the qualified rights protected by the Covenant, article 17 does not enumerate an exhaustive list of legitimate public policy objectives that may form the basis of a justification for interfering with the right to privacy. Nonetheless, the prevention, suppression and investigation of acts of terrorism clearly amount to a legitimate aim for the purposes of article 17. Terrorism can destabilize communities, threaten social and economic development, fracture the territorial integrity of States, and undermine international peace and security. Under article 6 of the Covenant, States are under a positive obligation to protect citizens and others within their jurisdiction against acts of terrorism. One aspect of this obligation is the duty to establish effective mechanisms for identifying potential terrorist threats before they have materialized. States discharge this duty through the gathering and analysis of relevant information by intelligence and law enforcement agencies (see A/HRC/20/14, para. 21).

34. The enhanced capacity of States to monitor all Internet traffic is said to be of particular significance in the counter-terrorism context because communications via the Internet have played an important part in the financing and perpetration of acts of international terrorism; because the Internet has been used for the purpose of recruitment to terrorist organizations; and because the identification in advance of those involved in the planning or instigation of acts of terrorism may otherwise be hampered by intelligence limitations. Since terrorism is a global activity, the search for those involved must extend beyond national borders. The prevention and suppression of terrorism is thus a public interest imperative of the highest importance and may in principle form the basis of an arguable justification for mass surveillance of the Internet.

3. Mass surveillance and the quality of law requirement

35. Article 17 of the Covenant explicitly provides that everyone has the right to the protection of the law against unlawful or arbitrary interference with their privacy. This imports a "quality of law" requirement that imposes three conditions: (a) the measure must have some basis in domestic law; (b) the domestic law itself must be compatible with the rule of law and the requirements of the Covenant; and (c) the relevant provisions of domestic law must be accessible, clear and precise. An interference that is authorized by domestic law may nonetheless be "unlawful" and/or "arbitrary" for the purposes of article 17 if the relevant domestic legislation does not meet the core requirements of accessibility, specificity and foreseeability,[27] or if domestic law otherwise fails to meet the standards of necessity and proportionality.[28] Accordingly, domestic law must contain provisions that ensure that intrusive surveillance powers are tailored to specific legitimate aims (see

[27] Human Rights Committee general comment No. 16, para. 3.

[28] Ibid., para. 8.

A/HRC/13/37, para. 60; and A/HRC/27/37, para. 28), and afford effective safeguards against abuse.[29] Moreover, the exercise of executive discretion must be circumscribed with reasonable clarity by the applicable law or binding published guidelines.[30]

36. Accessibility requires not only that domestic law be published, but also that it meet a standard of clarity and precision sufficient to enable those affected to regulate their conduct with foresight of the circumstances in which intrusive surveillance may occur. In paragraph 8 of its general comment No. 16 on the right to privacy, the Human Rights Committee stressed that legislation authorizing interference with private communications "must specify in detail the precise circumstances in which such interference may be permitted". Prior to the introduction of mass surveillance programmes outlined in the present report, this stipulation had always been understood as requiring domestic legislation to spell out clearly the conditions under which, and the procedures by which, any interference may be authorized; the categories of person whose communications may be intercepted; the limits on the duration of surveillance; and the procedures for the use and storage of the data collected.[29] The European Court of Human Rights has also stressed the need for clear detailed rules on the subject.[31]

37. Mass surveillance programmes pose a significant challenge to the legality requirements of article 17 of the Covenant. Where bulk access programmes are in operation, there are no limits to the categories of persons who may be subject to surveillance, and no limits on its duration. These conditions cannot therefore be spelled out in legislation. The detailed legal and administrative frameworks for mass surveillance often remain classified, and little is still publicly known about the ways in which captured data are operationalized. Very few States have so far enacted primary legislation explicitly authorizing such programmes. Instead, outdated domestic laws that were designed to deal with more rudimentary forms of surveillance have been applied to new digital technology without modification to reflect the vastly increased capabilities now employed by some States. Indeed, it has been suggested that certain States have "intentionally sought to apply older and weaker safeguard regimes to ever more sensitive information" (see A/HRC/13/37, para. 57).

38. The Special Rapporteur considers that there is an urgent need for States to revise national laws regulating modern forms of surveillance to ensure that these practices are consistent with international human rights law. Domestic laws governing the interception of communications should be updated to reflect modern forms of digital surveillance that are far broader in scope, and involve far deeper penetration into the private sphere, than those envisaged when much of the existing domestic legislation was enacted. The absence of clear and up-to-date legislation creates an environment in which arbitrary interferences with the right to privacy can occur without commensurate safeguards. Explicit and detailed laws are essential for

[29] CCPR/C/USA/CO/4, para. 22; *Malone v. United Kingdom*, Application No. 8691/79, Judgment of 2 August 1984, paras. 67-68; and *Weber and Saravia v. Germany*, Application No. 54934/00, Judgment of 29 June 2006.

[30] A/HRC/27/37, para. 29; and Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights (see E/CN.4/1985/4, annex), paras. 16 and 18.

[31] *Weber and Saravia v. Germany*, Application No. 54934/00, Judgment 29 June 2006; *Uzun v. Germany* (2012) 54 EHRR 121 para. 35.

ensuring legality and proportionality in this context. They are also an indispensable means of enabling individuals to foresee whether and in what circumstances their communications may be the subject of surveillance.

39. A public legislative process provides an opportunity for Governments to justify mass surveillance measures to the public. Open debate enables the public to appreciate the balance that is being struck between privacy and security (ibid., para. 56). A transparent law-making process should also identify the vulnerabilities inherent in digital communications systems, enabling users to make informed choices. This is not only a core ingredient of the requirement for legal certainty under article 17 of the Covenant; it is also a valuable means of ensuring effective public participation in a debate on a matter of national and international public interest (see A/HRC/27/37, para. 29; and A/HRC/14/46). In the view of the Special Rapporteur, where the privacy rights of the digital community as a whole are subject to systematic interference, nothing short of detailed and explicit authorization in primary legislation suffices to meet the principle of legality.

40. By contrast, the use of delegated legislation (instruments enacted by the executive under delegated powers) has already permitted the adoption of secret legal frameworks for mass surveillance, inhibiting the ability of the legislature, the judiciary and the public to scrutinize the use of these new powers (see A/HRC/13/37, para. 54). Such provisions do not meet the quality of law requirements in article 17 of the Covenant because they are not sufficiently accessible to the public (see CCPR/C/USA/CO/4). While there may be legitimate public interest reasons for maintaining the secrecy of technical and operational specifications, these do not justify withholding from the public generic information about the nature and extent of a State's Internet penetration. Without such information, it is impossible to assess the legality, necessity and proportionality of these measures. States should therefore be transparent about the use and scope of mass communications surveillance (see A/HRC/23/40, para. 91).

4. Extraterritorial mass surveillance programmes

41. Certain States have the technical capability to conduct mass surveillance of communications between individuals not resident within their jurisdiction and have thus implemented surveillance arrangements that have extraterritorial effect. Some of these activities are physically conducted on the territory of the State concerned and therefore engage the principles of territorial jurisdiction under the Covenant. This is the case not only where State agents place data interceptors on fibre-optic cables travelling through their jurisdiction, but also where a State exercises regulatory authority over the telecommunications or Internet service providers that physically control the data (A/HRC/27/37, para. 34). In either case, human rights protections must be extended to those whose privacy is being interfered with, whether or not they are physically located in the country in which the service provider is incorporated. The same is true where legislation on mandatory data retention imposes obligations on service providers located within a State's territorial or legal jurisdiction. Even where States penetrate infrastructure located wholly outside their territorial jurisdiction the relevant authorities nevertheless remain bound by the State's obligations under the Covenant (ibid., paras. 32-35 and the sources cited therein).

42. Extraterritorial surveillance operations pose unique challenges for the application of the "quality of law" requirements in article 17 of the Covenant. Domestic legislation governing the interception of external (international) communications often affords less protection than comparable provisions protecting purely domestic communications.[32] Of even greater concern, some States (including the United States) continue to permit asymmetrical protection regimes for nationals and non-nationals. This difference of treatment affects all digital communications since messages are often routed through servers located in other jurisdictions. However, it has particularly significant ramifications for the penetration of cloud-based computing.[33]

43. Either form of differential treatment is incompatible with the principle of non-discrimination in article 26 of the Covenant, a principle that is also inherent in the very notion of proportionality.[34] Moreover, the use of mass surveillance programmes to intercept communications of those located in other jurisdictions raises serious questions about the accessibility and foreseeability of the law governing the interference with privacy rights, and the inability of individuals to know that they might be subject to foreign surveillance or to interception of communications in foreign jurisdictions. The Special Rapporteur considers that States are legally bound to afford the same protection to nationals and non-nationals, and to those within and outside their jurisdiction.

5. International cooperation between intelligence agencies

44. Similar concerns arise in relation to international intelligence-sharing arrangements. The absence of laws to regulate information-sharing agreements between States has left the way open for intelligence agencies to enter into classified bilateral and multilateral arrangements that are beyond the supervision of any independent authority (see A/HRC/13/37). Information concerning an individual's communications may be shared with foreign intelligence agencies without the protection of any publicly accessible legal framework and without adequate (or any) safeguards. Following a wide process of consultation, the High Commissioner for Human Rights recently found credible evidence that some Governments have systematically routed data collection and analytical tasks through jurisdictions with weaker safeguards for privacy (see A/HRC/27/37, para. 30). Such practices make the operation of the surveillance regime unforeseeable for those affected by it and are therefore incompatible with article 17 of the Covenant.

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[32] In her report on privacy in the digital age the High Commissioner identified a number of such provisions: in the United States, the Foreign Intelligence Surveillance Act, sect.1881(a); in the United Kingdom, the Regulation of Investigatory Powers Act of 2000, sect.8(4); in New Zealand the Government Security Bureau Act of 2003 sect.15A; in Australia the Intelligence Services Act sect.9; and in Canada the National Defence Act, sect.273.64(1) (see A/HRC/27/37, para. 35, note 30).

[33] European Parliament Directorate General for Internal Policies and Casper Bowden, "The US surveillance programmes and their impact on EU citizens' fundamental rights", 2013.

[34] The Human Rights Committee has also emphasized the importance of "measures to ensure that any interference with the right to privacy complies with the principles of legality, proportionality and necessity, regardless of the nationality or location of individuals whose communications are under direct surveillance", CCPR/C/USA/CO/4, para. 22 (a).

6. Safeguards and supervision

45. One of the core protections afforded by article 17 is that covert surveillance systems must be attended by adequate procedural safeguards to protect against abuse.[29] These safeguards may take a variety of forms, but generally include independent prior authorization and/or subsequent independent review. Best practice requires the involvement of the executive, the legislature and the judiciary, as well as independent civilian oversight (see A/HRC/27/37). The absence of adequate safeguards can lead to a lack of accountability for arbitrary or unlawful intrusions on the right to Internet privacy (ibid.).

46. Where targeted surveillance programmes are in operation, many States make provision for prior judicial authorization. Judicial involvement that meets international standards is an important safeguard, although there is evidence that in some jurisdictions the degree and effectiveness of such scrutiny has been circumscribed by judicial deference to the executive (ibid., para. 38). In other States, such as the United Kingdom, warrants of interception directed at particular targets are granted by government ministers without prior judicial authority. This is said to be justified on the basis that ministers are democratically accountable to the electorate. The Executive's use of these powers is then subject to review by an independent Interception of Communications Commissioner, and individuals can also bring complaints to a judicial body, the Investigatory Powers Tribunal, which has authority to consider classified information in closed proceedings.

47. In the context of targeted surveillance, whichever method of prior authorization is adopted (judicial or executive), there is at least an opportunity for ex ante review of the necessity and proportionality of a measure of intrusive surveillance by reference to the particular circumstances of the case and the individual or organization whose communications are to be intercepted. Neither of these opportunities exists in the context of mass surveillance schemes since they do not depend on individual suspicion. Ex ante review is thus limited to authorizing the continuation of the scheme as a whole, rather than its application to a particular individual. The Special Rapporteur considers that those States using mass surveillance technology must establish strong independent oversight bodies that are adequately resourced and mandated to conduct ex ante review of the use of intrusive surveillance techniques against the requirements of legality, necessity and proportionality in article 17 of the Covenant (A/HRC/13/37, para. 62).

48. The other procedural dimension of article 17 is the requirement for ex post facto review of intrusive surveillance measures. Some States provide for an independent reviewer to monitor the operation of surveillance legislation by analysing the manner and extent of its use and the justification therefor. Such reviews should always incorporate an analysis of the compatibility of State practice with the requirements of the Covenant.

49. In addition to this type of general overview, States are under a specific obligation to provide a remedy to individuals whose Covenant rights have arguably been violated. Article 2, paragraph 3(b), of the Covenant requires States parties to ensure that any person claiming a remedy has an enforceable right to have his or her claim determined by a competent domestic judicial, administrative or legislative authority. In order to render this right effective, domestic law must provide an independent mechanism capable of conducting a thorough and impartial review, with access to all relevant material and attended by adequate due process

guarantees, which has power to grant a binding remedy (including, where appropriate, an order for the cessation of surveillance or the destruction of the product) (see A/HRC/14/46; and A/HRC/27/37, para. 39).

50. In order to invoke the right to an effective remedy, it is generally necessary for an individual to establish that he or she has been the victim of a violation. In the context of secret surveillance measures, this requirement can be difficult or impossible to meet. Very few States have provisions in place requiring ex post notification of surveillance to the suspect. The European Court of Human Rights has, accordingly, relaxed the requirement for individuals to prove that they have been the subject of secret surveillance. It has drawn a distinction between complaints directed towards the existence of a regime that is alleged to fall short of the requirements of the European Convention on Human Rights, and complaints concerning specific instances of unlawful activity by the State. In the former situation, the Court has been prepared to examine the impugned provisions on their face,[35] whereas in the latter situation, it has generally required applicants to show a "reasonable likelihood" that they have been the subject of unlawful surveillance.[36] In the context of mass surveillance regimes, the Special Rapporteur considers that any Internet user should have standing to challenge the legality, necessity and proportionality of the measures at issue.

7. The necessity and proportionality of mass surveillance programmes

51. It is incumbent upon States to demonstrate that any interference with the right to privacy under article 17 of the Covenant is a necessary means to achieving a legitimate aim. This requires that there must be a rational connection between the means employed and the aim sought to be achieved. It also requires that the measure chosen be "the least intrusive instrument among those which might achieve the desired result" (see CCPR/C/21/Rev.1/Add.9; and A/HRC/13/37, para. 60). The related principle of proportionality involves balancing the extent of the intrusion into Internet privacy rights against the specific benefit accruing to investigations undertaken by a public authority in the public interest. However, there are limits to the extent of permissible interference with a Covenant right. As the Human Rights Committee has emphasized, "in no case may the restrictions be applied or invoked in a manner that would impair the essence of a Covenant right".[37] In the context of covert surveillance, the Committee has therefore stressed that any decision to allow interference with communications must be taken by the authority designated by law "on a case-by-case basis".[38] The proportionality of any interference with the right to privacy should therefore be judged on the particular circumstances of the individual case.[39]

52. None of these principles sits comfortably with the use of mass surveillance technology by States. The technical ability to run vast data collection and analysis programmes undoubtedly offers an additional means by which to pursue counter-terrorism and law enforcement investigations. But an assessment of the

[35] *Klass v. Germany* (1979-80) 2 EHRR 214.
[36] *Halford v. United Kingdom* (1997) 24 EHRR 523.
[37] Human Rights Committee general comments Nos. 27 and 31.
[38] Human Rights Committee general comment No. 16, para. 8.
[39] Human Rights Committee general comment No. 16, para. 4. *Van Hulst v. The Netherlands*, Communication No. 903/1999, 2004, para 7.3; *Toonen v. Australia*, Communication No. 488/1992, para. 8.3.

proportionality of these programmes must also take account of the collateral damage to collective privacy rights. Mass data collection programmes appear to offend against the requirement that intelligence agencies must select the measure that is least intrusive on human rights (unless relevant States are in a position to demonstrate that nothing less than blanket access to all Internet-based communication is sufficient to protect against the threat of terrorism and other serious crime). Since there is no opportunity for an individualized proportionality assessment to be undertaken prior to these measures being employed, such programmes also appear to undermine the very essence of the right to privacy. They exclude altogether the "case-by-case" analysis that the Human Rights Committee has regarded as essential, and they may thus be deemed to be arbitrary, even if they serve a legitimate aim and have been adopted on the basis of an accessible legal regime (see A/HRC/27/37, para. 25). The Special Rapporteur, accordingly, concludes that such programmes can be compatible with article 17 of the Covenant only if relevant States are in a position to justify as proportionate the systematic interference with the Internet privacy rights of a potentially unlimited number of innocent people in any part of the world.[40]

8. Mandatory retention legislation and the automated mining of communications data held by telecommunications and Internet service providers

53. Mass surveillance programmes are not confined to the interception of communications content. Digital communications generate large amounts of transactional data. These communications data (or metadata) include personal information on individuals, their location and online activities. Many States have adopted legislation compelling telecommunications and Internet service providers to collect and preserve communications data in order to make them available for subsequent analysis. Such laws typically require service providers to furnish State authorities with Internet protocol allocations, enabling the user of a particular Internet protocol address at any given time to be identified. The capture of communications data has become an increasingly valuable surveillance technique for States. Communications data are easily stored and searched, and can be used to compile profiles of individuals that are just as privacy-sensitive as the content of communications (see A/HRC/27/37, para. 19). By combining and aggregating information derived from communications data, it is possible to identify an individual's location, associations and activities (see A/HRC/23/40, para. 15). In the absence of special safeguards, there is virtually no secret dimension of a person's private life that would withstand close metadata analysis.[1] Automated data-mining thus has a particularly corrosive effect on privacy.

54. In many States, a wide range of public bodies have access to communications data, for a wide variety of purposes, often without judicial authorization or meaningful independent oversight. In the United Kingdom, for example, more than 200 agencies are authorized to seek communications data under the Regulation of Investigatory Powers Act of 2000,[41] and there were 514,608 requests by public

[40] See A/HRC/27/37, para. 25, where the High Commissioner for Human Rights observed: "[I]t will not be enough that the measures are targeted to find certain needles in a haystack; the proper measure is the impact of the measures on the haystack, relative to the harm threatened; namely whether the measure is necessary and proportionate."

[41] The list of agencies authorized to seek communications data includes tax authorities and local government agencies, and may be extended by delegated legislation (executive order).

authorities for communications data in 2013 alone.[42] Courts have for some time recognized that the release of metadata to a public authority constitutes an interference with the right to privacy, and the Court of Justice of the European Union recently held that the retention of metadata relating to a person's private life and communications is, in itself, an interference with the right,[43] (with the grant of access to retained metadata for the purpose of analysis constituting a further and distinct interference).[44] In reaching this conclusion, the Court of Justice of the European Union emphasized that communications metadata may allow "very precise conclusions to be drawn concerning the private lives of the persons whose data has been retained".[45]

55. Applying the approach adopted by the Court of Justice of the European Union, it follows that the collection and retention of communications data constitute an interference with the right to privacy, whether or not the data are subsequently accessed or analysed by a public authority. Neither the capture of communications data under mandatory data retention legislation, nor its subsequent disclosure to (and analysis by) State authorities, requires a prior suspicion directed at any particular individual or organization. The Special Rapporteur therefore shares the reservations expressed by the High Commissioner as to the necessity and proportionality of mandatory data retention laws (see A/HRC/27/37, para. 26).

9. Purpose specification

56. Many States lack "purpose specification" provisions restricting information gathered for one purpose from being used for other unrelated governmental objectives. As a result, data that were ostensibly collected for national security purposes may be shared between intelligence agencies, law enforcement agencies and other State entities, including tax authorities, local councils and licensing bodies.[46] National security and law enforcement agencies are typically excluded from provisions of data protection legislation that limit the sharing of personal data. As a result, it may be difficult for individuals to foresee when and by which State agency they might be subjected to surveillance. This "purpose creep" risks violating article 17 of the Covenant, not only because relevant laws lack foreseeability, but also because surveillance measures that may be necessary and proportionate for one legitimate aim may not be so for the purposes of another (ibid., para. 27). The Special Rapporteur therefore endorses the recommendation of his predecessor that States must be obliged to provide a legal basis for the reuse of personal information, in accordance with human rights principles (see A/HRC/13/37, paras. 50 and 66). This is particularly important where information is shared across borders or between States.

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[42] See www.intelligencecommissioners.com/.

[43] Court of Justice of the European Union, Judgment in Joined Cases C-293/12 and C-594/12, *Digital Rights Ireland and Seitlinger and Others*, Judgment of 8 April 2014, para. 34.

[44] Ibid., para. 35.

[45] Ibid., paras. 26, 27 and 37.

[46] For an analysis of the ways in which such purpose creep has occurred in the United Kingdom, see www.whatdotheyknow.com/request/127491/response/315758/attach/html/2/Summay%20of%20Counsels%20advice.pdf.html.

10. The private sector

57. States increasingly rely on the private sector to facilitate digital surveillance. This is not confined to the enactment of mandatory data retention legislation. Corporates have also been directly complicit in operationalizing bulk access technology through the design of communications infrastructure that facilitates mass surveillance. Telecommunications and Internet service providers have been required to incorporate vulnerabilities into their technologies to ensure that they are wiretap-ready. The High Commissioner for Human Rights has characterized these practices as "a delegation of law enforcement and quasi-judicial responsibilities to Internet intermediaries under the guise of self-regulation and cooperation" (see A/HRC/27/37, para. 42). The Special Rapporteur concurs with this assessment. In order to ensure that they do not become complicit in human rights violations, service providers should ensure that their operations comply with the Guiding Principles on Business and Human Rights, endorsed by the Human Rights Council in 2011 (ibid., paras. 43-46).

IV. Conclusions and recommendations

58. States' obligations under article 17 of the International Covenant on Civil and Political Rights include the obligation to respect the privacy and security of digital communications. This implies in principle that individuals have the right to share information and ideas with one another without interference by the State, secure in the knowledge that their communication will reach and be read by the intended recipients alone. Measures that interfere with this right must by authorized by domestic law that is accessible and precise and that conforms with the requirements of the Covenant. They must also pursue a legitimate aim and meet the tests of necessity and proportionality.

59. The prevention and suppression of terrorism is a public interest imperative of the highest importance and may in principle form the basis of an arguable justification for mass surveillance of the Internet. However, the technical reach of the programmes currently in operation is so wide that they could be compatible with article 17 of the Covenant only if relevant States are in a position to justify as proportionate the systematic interference with the Internet privacy rights of a potentially unlimited number of innocent people located in any part of the world. Bulk access technology is indiscriminately corrosive of online privacy and impinges on the very essence of the right guaranteed by article 17. In the absence of a formal derogation from States' obligations under the Covenant, these programmes pose a direct and ongoing challenge to an established norm of international law.

60. The Special Rapporteur concurs with the High Commissioner for Human Rights that there is an urgent need for States using this technology to revise and update national legislation to ensure consistency with international human rights law. Not only is this a requirement of article 17, but it also provides an important opportunity for informed debate that can raise public awareness and enable individuals to make informed choices. Where the privacy rights of the entire digital community are at stake, nothing short of detailed and explicit primary legislation should suffice. Appropriate restrictions should be imposed

on the use that can be made of captured data, requiring relevant public authorities to provide a legal basis for the reuse of personal information.

61. **States should establish strong and independent oversight bodies that are adequately resourced and mandated to conduct ex ante review, considering applications for authorization not only against the requirements of domestic law, but also against the necessity and proportionality requirements of the Covenant. In addition, individuals should have the right to seek an effective remedy for any alleged violation of their online privacy rights. This requires a means by which affected individuals can submit a complaint to an independent mechanism that is capable of conducting a thorough and impartial review, with access to all relevant material and attended by adequate due process guarantees. Accountability mechanisms can take a variety of forms, but must have the power to order a binding remedy. States should not impose standing requirements that undermine the right to an effective remedy.**

62. **The Special Rapporteur concurs with the High Commissioner for Human Rights that where States penetrate infrastructure located outside their territorial jurisdiction, they remain bound by their obligations under the Covenant. Moreover, article 26 of the Covenant prohibits discrimination on grounds of, inter alia, nationality and citizenship. The Special Rapporteur thus considers that States are legally obliged to afford the same privacy protection for nationals and non-nationals and for those within and outside their jurisdiction. Asymmetrical privacy protection regimes are a clear violation of the requirements of the Covenant.**

63. **The Special Rapporteur calls upon all States that currently operate mass digital surveillance technology to provide a detailed and evidence-based public justification for the systematic interference with the privacy rights of the online community by reference to the requirements of article 17 of the Covenant. States should be transparent about the nature and extent of their Internet penetration, its methodology and its justification, and should provide a detailed public account of the tangible benefits that accrue from its use.**

64. **The Special Rapporteur concurs with his predecessor (see A/HRC/13/37, para. 19) and with the former Special Rapporteur on the promotion and protection of the right to freedom of expression and opinion (see A/HRC/23/40, para. 98) that the Human Rights Committee should develop and adopt a new general comment on the right to online privacy, which would reflect developments in the surveillance of digital communications that have taken place since general comment 16 was adopted in 1988.**